Part II

51-54

1954

File No MIC1151

Public Works DEPARTMENT

T & J BRANCH

Subject:—

Water Supply to

Gokak Mill

B(K) 1951

File No. MIC 1151 - T II

Gd. Secret. Slip 21 A—

2004—5,00,000—9-52—K2*
G.R., G.D., No. 2408, dated 22-6-22.]

Std. Sectt. 78 e.

Correspondence

DOCKET SHEET

Subject :—

File No. MIC115

_____ DEPT.

_____ BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

MIC 115

71784

J.Br.

Submitted with refce. to Govt Express Letter No. 298/48-J, dated the 18.7.1951

A.P. 73 of 48 (Secy (Gen))

Await

KJH.
24/8/51.

28-8-51

Supdt.

Sh: Offg
23/8

~~7 3~~

MIC.1151|74269|

P.W.D.

I. Br.

xSlip A (p 79 of File No 298/.8)

Submitted with refce. to D.O. No. 298/48. J, dt. ltr 20-8-51.

2. With refce. to Dy. Secy's query at p. 5 ante it may be stated that these papers are in connection with the lowering of the height by the Gokak Mills Ltd. of their Pick up-weir and the use of water by the Mills.

3. A. further report from the S.E. K.E.C. may be awaited.

Kjd. 28/8/51

28/8/51

D.S.

MIC. 1151/74269

29/8 on 20/9

P.W.D.

T.B.

Resubmitted with a draft for approval

11/9/17

D.S.

25 5

MIC 1151/87426

P. W. D.

Submitted with reference to Government Letter No. 298/48-I.B.(II), dated 2-8-50 and the Office Note underlying it.

2. The points under consideration in these papers are -

(a) Raising of the weir at the head of Gokak Mills, by the Gokak Mills, Limited, which obstructs the Konuur Causeway and prevents the measuring device being constructed

(b) Utilisation of the water meant for industrial purposes for domestic and commercial purposes by the Gokak Mills thus depriving of the Govt. of a revenue of about Rs. 10,000 per annum.

These points have been fully explained at pp 3-5 of N/s in file No. 298/48.

3. On the advice of the R.L.A. the S.E., K.I.C., was asked to address the Gokak Mills, Limited, in respect of both the points. The S.E. has forwarded copies of the correspondence that took place between the Mills and the Ex. Engr., Ghataprabha Left Bank Canal Division.

4. With regard to the raising of the weir top to R.L. 1985.25 the Ex. Engr. reports that this raising was effected by the Mills on the strength of G.L. No. 97/M, dated 3-5-1901, and that no other authority for doing so could be shown by the Company. On a perusal of this letter it will be seen that the Company was given provisional permission for temporarily raising the pick up weir to reduced level 1985.50 under certain specific conditions and subject to execution of a formal agreement in this connection No such agreement allowing the Mills Company to raise the reduced level of 1985.50 has been executed on the basis of the above letter. The Company was therefore served with a notice asking them to demolish the unauthorisedly raised portion of the weir i.e. upto

Slip A File No. 298/48 p 57 of C/S

X — do — pp 11-12 of N/S

* Slip A.

? — do — p 15 of N/S

?? — do — p 57 of C/S

≠ Vol 1037 1899-03 Slip R.

upto the reduced level of 1984.50 stipulated in the agreement of 1899. In the agreement executed in 1938 the reduced level of 1984.50 only has been confirmed. In view of letter # dated 12-2-51 from the Gokak Mills Limited, the Ex. Engr. was asked to stay any action on the notice served on the Mills. On this point the Gokak Mills Company has stated that they were arranging for an accurate survey to find out the actual height of the weir. The S.E. p 23 suggests that a survey by a neutral surveyor with the staff of the G.L.B.C. in attendance may be conducted in case there is dispute about the height of the weir. If appears that there is absolutely no necessity to engage a neutral surveyor as the Ex. Engr., has already found the top of the weir varying between R.L. 1985.16 and 1985.31.

Slip A File 298/48 p 65-67/c

X — do — p 69 c/f

X — do — p 67 c/f

5. With regard to the unauthorised use of water for purposes other than water power, the Mills contend that they have been using water identically the same way as they are doing now for the last 56 years without any let or hindrance and under the authority of the same agreements.

6. Attention is invited to portion 'A' of the letter on page 17 ante. The Mills Co. at Gokak desired to have these points settled between their head Office at Bombay and this office. Attention is also invited to letter dated 12-2-51 from M/s. Gokak Mills Ltd. in which they have requested to give them an opportunity to discuss the points and to stay any action on the notice served by the Ex. Engr. on the Mills. In view of the C.E.'s note dated 12-2-51, it is for consideration whether the Agents of the Gokak Mills, Limited, at Bombay be asked to call on the C.E. for discussion regarding the above points before further action is taken. If so, the date, time and place may kindly be indicated in order that the Co. may be addressed accordingly.

Through D.E.(I).

O — do — p 65-67 c/f

? — do — p 67 c/f

SAM. 3/11/51.

3.11.51

I shall inspect the weir complained of with the S.E.-K.G.C. when C.E. comes this cold weather.

MIC 11151/87426.

27 7 P.W.D.

J. Br.

Resubmitted with reference to the C.E's p26 note dated 8.11.51.

2. The draft p29 put up for approval may issue.

Thro: D.E(2)

15.11.51. 15/11

D.F(J&E) 16/11

~~31~~ 9 MIC.1151/87426

P.W.D

J.B.

Resubmitted with reference to C.E's. note at P.26 ante dt. the 8-11-51.

2. The S.E., K.I.C. has been asked to put up the cases papers to the C.E. when he visits the Ghataprabha L.B. Canal. It is for consideration whether these papers will also be required then. If so, these papers along with the F.P. will be put up.

23/4/52

I shall be going to the site by 10 May 1952. Put up papers then and not now.

24.4.52.

S/Shri D. C.E.
24/4

MIC.1151/87426 ~~32~~ P.W.D

J B.

Resubmitted with reference to the file No.294 put up by C.E. vide note overleaf.

9/5/52

C.E.

~~35~~ 41 MIC.1151/5-6977

P.W.D.

J.B.

The main papers on the subject are under submission to the C.E. since 9-5-52. This will be resubmitted as soon as the main papers become available

26/6/52

S.(94E) 26/6

C.E. In case given to me in writ letter Point A in st letter may be examined.

2
26.6.

Sd/- D.
26/6

7

MIC 1151/56977.

P.P. J. L.
"J"

Submitted with reference to the Government Letter dated the 20th November 1951 and the notes underlying it.

2. The points under consideration are:

(a) Raising of the weir at the head of the Gokale Falls by the Gokak Mills. Limited. which obstructs the Kannur Causeway and prevents the measuring device being constructed.

(b) Utilisation of the water meant for industrial purposes for domestic and commercial purposes by the Gokak Mills thus depriving the Government of a revenue of about Rs 10.000/- per annum.

3. Regarding point (a): Attention is invited to the Superintending Engineer, K.I.C.'s letter dated the 11th June 1952 wherein it is stated that as provisional permission was given to the mills to raise the level of the weir to R.L. 1985.5 in 1901 it is considered not necessary to insist on the lowering of the weir level now even though the permission was not incorporated in the subsequent formal agreement. The Superintending Engineer may be asked to incorporate this in a formal agreement now.

Regarding point (b): According to the agreements which the mills have entered into with Government, the mills are entitled to use Canal water only for the generation of hydro-electric power. They cannot, therefore, use that canal water for any other purpose. Accordingly, advice of the D.L.A., the Superintending Engineer was asked to bring this fact to the notice of Messrs The Gokak Mills Limited, and to ask them to stop immediately the use of canal water for purposes other....

ther than generation of power till a fresh agreement for such use of canal water is entered into with Government. Copies of the correspondence between the Executive Engineer, Ghataprabha Left Bank Canal Division, and the Sakar Mills will be found at pp. 1-10 ante. The Mills contend that the agreement includes all the purposes for which they are using water and that although they have been using water in identically the same way for the same purposes for the last 56 years on the authority of the same agreements, no objection was raised so far.

4. As already stated above, the Mills will have to enter into a fresh agreement with Government for the use of canal water for purposes - other than generation of hydro-electric power. It is also for consideration whether the Company should be charged at Rs 6 per 10,000 gallons of water already used by them. The R.L.A. may be requested to advise on the legal aspect of the above suggestions in accordance with the provisions of the agreements before the Superintending Engineer is asked to take necessary action.

Through: D.E. (I)

(AN)
1/7/52

The case may be referred to R.L.A as regards use of water for Domestic and other purposes other than generation of power.
The water rate chargeable will be Rs 6 per 1000 Gallons as in other cases.

C.E.

Secy

Minute to the R.L.A.

C.I.D. GOVERNMENT
1.7.52 DEPARTMENT
File No. 13530
Sub No. 8.7.52
Branch A
D.S.(P+E)
LT 7 JUL 1952
WSH 298/48 Revised lease

9. 7 15

Office of the R.L.A.

The indenture of 1894 provides for lease of the lands with exclusive right to use the water power at the said falls of Gokak so far as the same shall be actually required for the works of the ~~xxxx~~ lessees hereinafter mentioned or referred to. The words "shall be actually required" qualify the preceding words "water power" and not water. It is, therefore, apparent that what is granted is not the supply of water but the right to generating energy at the falls. "Works of the lessees hereinafter mentioned or referred to" means the works of the lessees mentioned in covenant No.3 in the indenture.

2. Under section 37 of the Bombay Land Revenue Code the river vests in Government. This right of Government is subject to the natural right of a riparian proprietor, which right means the use of water for ordinary purposes, that is to say, for washing, drinking and domestic purposes and for his cattle ad lavandum et ad potandum (see section 7(j) of the Indian Easements Act). Under section 55 Government has a right to claim rates for the use of water vesting in it. It appears, therefore, that, although the mills can use the water of the river for drinking purposes, it is difficult to support its claim for use of water for industrial purposes and for gardenin Consequently, Government can press its claim for water rate for the supply of water for gardening and industrial purposes, but not for supply of water for drinking purposes.

29/9/52

Remembrancer of Legal Affairs.

U.R. to P.W.D., No. 16094/A dated the 29th September 1952.

P. W. D.
File No. MIC1151
File No. 92326

RMS.

4-7

MIC 1151/92329

P. W. D.

'J'

P.38

Submitted with ref. to this Deptt. u.o.r. dated the 7-7-52.

P 39

2. In view of the R.L.A.'s opinion that Govt. can press its claim for water rate in accordance with the orders issued in G.R., R.D., No.4321/24-II, dt. the 28-9-42, the S.E., K.I.C., may perhaps be requested to address the mills in the matter informing them that they are liable to be charged at the rate of Rs.6/- per 10,000 c.ft. of water used by them for purposes other than drinking and power generat. It is also for consideration whether this revised rate should be made applicable with immediate effect or from the date of issue of the R.D. orders ref'd. to above. A copy of the R.L.A.'s opinion P.39 may be forwarded to the S.E. and he may be requested to submit a modified para. to the agreement in the light of the R.L.A.'s remarks and also intimate to Govt. the addnl. amount that will be payable to Govt. by the mills on this account.

3. As regards the raising of the weir at the head of the Gokak Falls by the Gokak Mills, Ltd., the S.E. may be asked to incorporate in a formal agreement with the Gokak Mills the provisional permission given to the Mills in 1901 to raise the level of the weir to R.L.1985.50, as already proposed in para. 3 of the O.N. P 37 38 dated the 1-7-52.

Thro: D.E.(I).

2
GJP.
13/x/52

13/10/52

D.S.(G+E)

C.E.(I)

Secy.

Past recoveries may not be effected
The rate of Rs 6 for 10,000 cft of water may be made applicable from 15/2/52 or even from 15/2/53. It is also necessary to erect measuring devices. The above rate is the applicable for use of water for purposes other than (1) Drinking and power generation

42

The buy may be charged under rule from 15.2.53 - The apparatus for measurement of work should be completed by that time 23/10/52

DFC (HC)

3/24.10.52

CE(I)

As proposed by DF. Re para 3 of O.M., we may await RLA's advice in the linked case. WMD 25/10

Secy.

4/11

P.43-45 'J'

For the reasons explained in this letter, dated the 22nd October 1952, the Superintending Engineer states that Government would be in its own rights to have the crest of the Gokak Mills Pick-up-weir reduced by the Company to conform at least to the limits formally authorised by the agreement executed on the 10th June 1899 so long as the modification is not entered in a formal agreement. However, if it is finally decided not to insist on the lowering of the weir level the Superintending Engineer suggests that while incorporating in a formal subsidiary agreement the increased level of the company's weir some changes in conditions contained in the previously executed agreement which are inconvenien to Government may be effected.

* P 21-35 of Kant on [illegible] ('clipped A')

2. The Superintending Engineer suggests that the following modifications may be incorporated in the formal agreement :-

(1) According to the terms of the agreement as existing at present the company have the right to have extra supply of water over and above the equivalent of 68 cubic feet per second of water at present being supplied, upto and not exceeding 136 cubic feet per second. As Government is not in a position to give to the Company a supply of water over and above 68 cubic feet per second, either continuous or an intermittent equivalent thereof, it is necessary to amend the conditions of the agreement so as to restrict the limit of maximum supply of water to the Company to not more than an equivalent of 68 cubic feet per second. It is also to be considered whether the suppl should be restricted to 68 cusecs and not its equivalent.

(2) Clause 18 of the agreement should be suitably modified so as to make provision in the clause for the choice to Government for entertainment or rejection of the company's ....

company's request for renewal of the lease, irrespective of whether the Company has or has not fulfilled all the conditions or terms of the present agreement.

(3) The clause regarding the delivery of a notice by the Company at the India office in London should also be amended.

(4) Suitable amendment of clause 15 will be necessary if the modifications suggested at item No.(1) above are accepted. The Superintending Engineer suggests that this clause may be deleted altogether.

3. As the Secretary has directed that the R.L.A's advice on the linked case should be awaited before incorporating in a formal agreement with the Gokak Mills the provisional permission given to the mills in 1901 to raise the level of the weir to R.L.1985.50, the above suggestion may also be considered after receipt of the R.L.A's advice on the linked case. (A)

Thro' D.E.(I). PSM.

1/11/52

4/11

As in (A) above. Will be re-examined after receipt of R.L.A's advice on linked case by 5/1

This case also will have to be referred R.L.A I think

D.S.(J&E)

6.11.52

C.E.(I)

Sec'y.

30/11

7/11

MIC-115-1/100441

Public Works Department

Gokak Mills Water Supply

The points under consideration are:-

(1) Raising of the weir at the head of the Gokakfalls by the Gokak Mills Ltd. which obstructs the Konnur Causeway and prevents the measuring device being constructed.

(2) Utilisation of the water meant for power ~~industrial~~ purposes for domestic and commercial purposes by the Gokak Mills Ltd. thus depriving the Govt. of a revenue of about Rs.10,000 per year.

2. Under the provisions of lease Govt. is bound by contract to give to Gokak Mills Ltd. an intermittent supply of water at the rate of 146 cusecs for 13 hours, for 6 days in a week equivalent to continuous supply of 68 cusecs. The Mills have to pay a sum of Rs.14,313 annually for the quantity of water supplied to them. Further according to agreement of 1897, the Mills are allowed to construct a weir at the head of th Gokak Falls having its top at R.L. 1983.75. Subsequently in 1899 the Coy. was allowed to raise the flanks of the weir by 9" i.e. upto R.L. 1984.5 leaving a gap of 50' in the middle which was to be closed by temporary means of removable type. According to agreement of 1899 the Ex. Engr. in charge is authorised not only to remove the temporary closure of the gap but also to dismantle the extra raising done over 1983.75 if he is satisfied that the raising of the weir affects Konnur Causeway and interfers with the traffic. The Gokak Mills have not only constructed the weir above the level of ~~1983.75~~ 1984.5 but have not kept the gap of 50 in the middle. They have constructed the weir in solid Masonry. It was also noticed that the water which is supplied for Power generation is also being used by the Mill for other purposes like drinking etc. The Mills were then served with a notice to dismantle the extra

height ..

height and to stop use of water for purposes other than power generation.

3. The question of use of water for purposes other than power generation was referred to R.L.A. Please see his opinion at page 39 ante. He has clearly stated that the Mills can not use the water for drinking & Power generation purposes other than purposes.

4. On both these points following decisions have have been taken:-

(i) As regards the raising of the weir at the Head of the Gokak falls by M/s Gokak Works Ltd. The S.E., K.I.C. is to be asked to enter into a formal agreement with the Mills. ✓ para 3 of N at p 41 ante.

(ii) Regarding use of water for drinking purposes other than & Power generation the Mill should be charged water rate at the rate of Rs.6/- per 10,000 c.ft. from 15-2-53. But issue of final orders was held up till receipt of R.L.A's advice on the point of terminating the agreement with the Mills. Please see the office note on linked case II (file No.3541/36). As it is not legally possible to terminate the contract, the orders on the decisions taken vide office note at p.41 ante may be issued. ✓ kept here (shipped Y)

5. The S.E. in his letter dated the 22-10-52, has proposed few amendments to the conditions contained in the previously executed agreements. The modifications proposed by the S.E. have been enumerated in office note at p.47-48 ante. As regards the modification proposed by the S.E. in connection with renewal of agreement (vide para 3 (2) of S.E's letter p.44) it may be stated that it is much doubtful how far the Mills will agree to this amendment but it may be mentioned in this connection that after their lease period is over it is for the Govt. to renew the agreement or not. At that time Govt. may impose any new conditions so as to take away all the facilities, the Gokak Mills is now enjoying. In view of this, these conditions may not at present be amended.

6. The other two modifications proposed by the S.E. seem to be reasonable but. Cont

Govt. cannot legally enforce the conditions on the Mills. But taking the advantage of the fact that the Mills have constructed the weir above the permissible height we may force the Mills to agree to the proposed amendments.

7. In the circumstances explained above, it is for orders whether the S.E. may be asked to ask the Mills whether they are agreeable to the proposed modifications to the previous agreements. As regards the water rates, the S.E. may be asked to write to the Mills that they should pay water rate for the water used for drinking purposes, from 15th Feb. 1953 at the rate of Rs. 6/- per 10,000 c.ft.

8. The M.R.D. has desired to see these papers. They may be submitted to him for information.

Through D.E. (I).

2/3/53

D.S.(I+E)

C.E.(I)

Secy.

Min. P.W.D

Min. R.D

2.
ka.2/3/53.

MIC. 115-1/100441

P.W.D.

J.B.

Resubmitted with a draft P.S.'3 for approval.

Th. D.E.(I)

16/3/12

18/3.

D.S.

13/3

Secy.

MIC.1157/38159

P.W.D.

T.B.

Submitted for information p.3-5-5-6

2. Further development may be awaited. Receipt of a reply to the C.M. dt. the 24-3-5-3 p 13-14 may also be awaited

9/4/53

D.S.(G+E)

10/4

3/4/53

11/4

MIC.1151/38/59 P.W.D.

J.R.

The S.E., K.I.C. expedited under Compl. No. MIC.1151/J. dt. the 6-5-59

6/6/59

6/5/59 Supdt.

6/6/59

J.R.

Resubmitted with a draft P.59 Advt/3915 for approval.

30/5/59

30/5/59

Supdt.

65 2)

MIC. 1151/3815-9

P.W.D.

J.B.

The S.E. K.I.C. may again be expedited as per draft D.O. put up for approval

4/8/13

D.S.(T+E)

23-29 MIC.1151/91522

P.W.D.

J.B.

Submitted with reference to G.L. p.53-54 dated the 24-3-53

2. In view of paras. 1 & 2 of the S.E.'s letter at p.71 further report from the S.E. may be awaited

3. Please see the remarks contained in para. 3 of the S.E.'s p.71 letter. The S.E. desires to ascertain whether the considerations mentioned therein are covered by the sections of the Bombay Land Revenue Code and Indian Easements Act mentioned in para. 2 of the R.L.A.'s opinion at p. 39 ante. These papers may, therefore, be referred back to the R.L.A. with a request to clarify this point.

Thro' D.E.(I)

10/8/53

THE SECRETARY TO GOVERNMENT, LEGAL DEPARTMENT.
File No.
With A.R. 1132-Confl.
Memo A, 13-8-53

D.S.(G+E)

18/8/53

Ref to the R.L.A. of the 12-8-53

Note to file
re 3541/36
29814
Lease file

25-31

Legal Department.

Under section 5 of the Bombay Irrigation Act, 1879, a notification can be issued by the State Government that the water of any river or of any lake or any other natural collection of still water is required to be applied for purpose of a canal. The fact that the water is not natural flowing and that after November water from Dhupdal lake is to be let down would not appear to make any change; and the river or the lake as the case may be, will be a canal within the meaning of section 3(1)(d) of the Act. Section 44 of the Act empowers the State Government to fix water rates to be levied for canal water supplied for purposes of irrigation or for any other purpose. Rule 14 of the Bombay Canal Rules, 1934, provides how water rates for water supplied for purposes of irrigation shall be levied. Rule 22 provides that water supplied from a canal for any purpose other than irrigation shall be charged for at such rate per unit of volume of water supplied as the State Government shall from time to time by order direct. If as stated by the Superintending Engineer the river in question has been notified as a canal under section 5 of the Bombay Irrigation Act, 1879, it would still be possible for Government to direct recovery of water rates from the Mills in view of section 44 read with rule 22 of the Canal Rules.

3618
2478 3 files

MIC 1151
98228

20-8-53

Secretary to Government.

MMS. 19.8.53.

U.R. to P.W.D.No.17408/A, dt.20th August 1953.

~~27~~ 73

MIC.1151/98828

P.W.D.

I.B.

Submitted with reference to this Deptt
p.73
W.O.N. dated the 12-8-5-3.

2. A copy of the R.L.A's opinion p.75
may be forwarded to the S.E., K.I.C.,
p.79-80
as per draft put up for approval.

5/9/13

D.S.

9/9/13

~~89~~ 95 MIC.1157/10830.

P.W.D.

T.B.

The main file on the subject which is required for the disposal of this case has been put up with file No. NS.95/96199 which is under submission upto Secy. L.D M.P.W.D and M.R.D. Its return may be awaited.

21/9/13

Supdt.

~~53~~ 37) MIC. 1151/110868

P.W.D.

J.B.

The file containing the references referred to in para 1 of the S.E's letter required for the disposal of this case has been put up with paper bearing file No. WS.95/96199 which is under submission upto Secy. L.D., M.P.W.D. and M.R.D. SE's return may be awaited.

28/9/93.

Supdt.

2/11/93

Asst ( )

2-11

~~1951~~ 39

M I C. 1151 | 39421

T. B.

P. W. D.

File No. 35-41/36 required for the disposal of this case is not forthcoming inspite of a search by the Br. searcher. A further search is being made and the case will be resubmitted within a week.

Yes, without fail, please

10-9-54

10/9/54

10/9/54

A

A. S. (III)

Rup Sa
DS. 10/9

T. Rn.

Resubmitted

2. The file in question is still not forthcoming inspite of a thorough search by the Branch searcher. Further efforts are being made to trace the file and the case will be resubmitted a/ waiting a week.

10/1/14

(File kept below)

2/1/15 — 4/1/15 — 10/1/15 — D.S. (DE)

MIC 1151/39425

P.W.D.

'J' Br.

p.1-3-1-74

In para 5 of G.L. dated the 24-3-1953, the S.E. was requested to inform the Gokak Mills that they should pay water-rate at the rate of Rs.6/- per 10,000 cft. for the water used by them for purposes other than drinking and power generation. Accordingly in his letter p.83 dated the 14-7-1953, the S.E., K.I.C., informed the Mills that they should pay water rate with effect from 15-2-1953 at the current rate of Rs.6/- per 10,000 cft. for the water used by them for purposes other than drinking and power generation. The Mills then replied p.85-86 that under the Agreement they are fully entitled to use water for purposes other than power generation and they, therefore, do not consider it correct to be charged for water so used at Rs.6/- per 10,000 cft.

2. Perusal in this connection is requested to the opinions of the R.L.A. at pp. 39 & 75 ante from which it will be seen that Govt. can direct the recovery of water rates from the Mills in view of section 44 of the Bombay Irrgn. Act, 1879, read with rule 22 of the Bombay Canal Rules. The S.E., however, p.95-96 states that it appears desirable to scrutinise, before enforcing the levy of the water charges under the Bombay Irrigation Act, 1879, the legal implications of such provisions or wordings contained in the agreement, in respect of 'liberty' to the Mills ' to use free of charge' or 'without making any payment ' any natural excess of water during certain months on any water drawn from their own storage works, as appear in the latter portion of the second paragraph on page 3 of the Indenture

executed.....

T 43

MIC 1151
39425

J.Bx

P.W.D

Submitted with ref. to para 4 of the O.M., dt. p1504
the 26-5-1954.

2. The file containing the agreement with Gokak Mills has been rec'd. from the D.O. & is put up below. As proposed in para 4 of the O.M. the papers may now be sent to the R.L.A. / R.D. for remarks on the various points raised in the O.M. p153-154

Sri R

26/6/54

S(RE)

26/6

Recd. the R.L.A. / R.D. of 24-6-54 D.T.O

executed on the 31-7-1894. The S.E. also invites attention to the remarks contained in paras 3 and 4 of his letter dated the 3-8-1953 at p. 71 ante. The R.L.A. may be requested to reconsider his opinion, if necessary, in the light of the above remarks.

3. The S.E. had reported (p.91) that the N.A. assessment of Rs.297-8-0 only being paid by the Mills was considered by the Collector as too low a rent for the use of the land and that therefore this assesment should be increased to the maximum fixed for the 3 villages in which the land is situated. In this connection attention is invited to the Collector of Belgaum's letter (1.5.5.56) of 30-3-1953 when the Collector has given the break up of the assessment of Rs.22,244-14-0 now due from the Mills against Rs.297/8/- actually paid by them in accordance with the agreement. The S.E. is of the opinion that during the tenure of the lease i.e. upto 28th May 1983 the rate of rent cannot be increased, ~~and has~~ vide the S.Es letter at p.91 ante.

As the land has been leased to the Mills by the Collector of Belgaum, the R.D. may see these papers U.O. and with reference to the agreement with the Mills consider whether Govt. is justified notwithstanding the agreement, to levy the enchanced assessment of Rs.22,244-14-0 as against Rs.297-8-0 now paid by the Mills.

4. As requested by the D.D. the file containing the agreement with the Gokak Mills has been forwarded to that Department on 18-5-1954 for perusal. These papers may therefore be referred U.O. to the R.L.A. and the R.D. on return of the agreement file from the D.D.

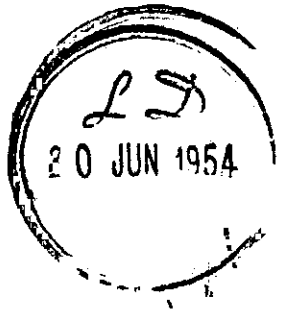
Thro' D.E.(9)

26/5/54

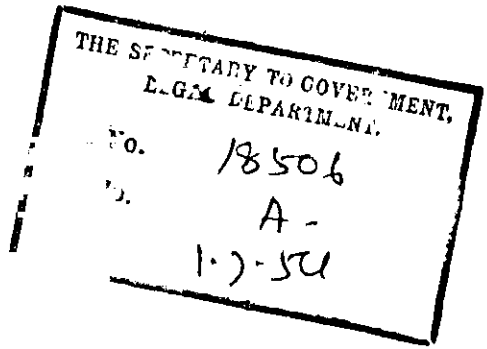
D.S.(9+E) 2. AR/26/5/54.

C.E.(1) & ft.Secy

⊗ with files No 3541/36, 3541/36,
3541/36 IX, and the Revised Leave



1/6



Legal Department.

The proviso at the end of the second para of the preamble to the lease dated the 31st July 1894 is in the following terms:-

"Provided always that the lessees shall be entitled to use, without making any payment therefor to the lessor, any water drawn from their own storage works and also that no charge shall be leviable by the lessor for or in respect of any natural excess of water during the months of July, August, September and October in any year used or available for use beyond the quantity in respect of which the yearly rents hereinbefore reserved shall for the time being have become payable, and which excess of water the lessees are to be at liberty to use free of charge."

The above condition appears to have been incorporate in the operative part of the lease as condition 15 c the lessor's covenants. That condition is as follows

"Provided always and it is hereby agreed, that if at any time during the continuance of this demise the lessee shall require a supply of water larger than 136 c.ft. per second, and shall be willing at their own expense to construct the necessary storage works for that purpose, they shall be entitled to dc so (but so as not to prejudice or interfere with the supply of the said 136 C.ft. per second, or the then existing irrigation works of the lessor, or the then existing supply of water to any person who, in the opinion of the Government of Bombay, may be entitled to the enjoyment of the use of the said river water) and to store therein water from the said river and falls, and to use all water drawn from such storage works without making any payment therefor to the lessor."

It is true that under this provision the lessees are empowered to construct storage works if at any time

they require an enhanced supply of water; and that they will not be required to make any payment in respect of the use of water stored therein. Similarly the lessees are entitled to make free use of excess water. However as pointed out by the R.L.A. in his opinion No.16094/A, dated the 29th September 1952, what the Indenture of 1894 purported to grant is a lease of the lands with a right to use the water power at the Gokak Falls, for the purposes of the works of the lessees. As made clear therein it is not the supply of water that is granted, but the right to generate energy at the falls. The free use of the stored water or of the excess water referred to in the Indenture would therefore be only for the purposes of generating energy, and not for any extraneous purpose. As stated in the opinion referred to the Mills can make free use of the water for drinking purposes, but if they make us of the water (even from out of the storage works constructed by them) for industrial purposes or for gardening they would appear liable to pay water charges.

2. The Superintending Engineer also invites attention to the remarks made by him in paras 3 and 4 of his letter at page 71 ante: The said remarks were considered when the Secretary recorded his opinion No.17408/A, dated the 20th August 1953 (page 75 ante), and confirmed the view that it was still possible to recover water charges. In the circumstances the view already expressed by the R.L.A. does not need any modification.

Joint Secretary to Government.

U.R. to P.W.D.No.17822-A dated the 24th July 1954.

~~4 4 59~~ MC 1151

98758 ~~39/425~~

J.Bl P.W.D.

Submitted.

2. The case has been returned with the remarks of the L.D. dt. 4.7.59 but the R.D. has not seen the case, as should have been done vide O.M. No. 10 dt. the 26-6-1954. It may now be noted that as per para 3 of O.M. No. 10 dt. the 26-5-1954 referred to, the

28/7/54

DS (P&C) (for RD)

Pl. move to the R.D. PTO of 30-7-59

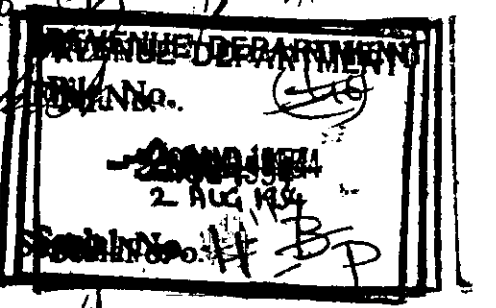
X Cir

with files nos. 3541/20/IX

PCIT No 3541/21 (1565)

3541/21 (1550 ... 29)

file of lease agreement



Due

Issued

Sue Note to be taken on file

Non-receipt of reply

Revenue Department/P Branch.

The remarks of the R.D. have been called for on para. 3 of the P.W.D. note, dt. 26-5-54. The Collr. of Belgaum has proposed to increase the present rent(which was fixed at the rate of n.a.a. prevalent in the locality) of the land leased to Gokak Mills for industrial purposes for the reasons stated in his letter, dt. 30-3-53. The S.E., K.I.C. has however stated that it will not be possible to increase the rate of n.a.a. until the expiry of the lease period, since under the terms of the agreement, the Co. is liable to pay the rent that was being charged to it so far. The P.W.D. has referred these pps. for remarks as to whether Govt. is justified to levy increased assessment notwithstanding the agreement.

2. Please see in this connection, condition 2 at p.4 of the agreement. In accordance with it the Co. is to "pay all existing and future taxes, rates assessments, etc.....payable in respect of the land, hereditaments and premises herein before expressed to be hereby demised or the bldgs. and works erected thereon". It seems that in view of this condition the proportionate increase in rent of the land in qn., in view of the appreciation of land values in the course of time, will be admissible in this case, as the Co. is liable to pay "future taxes, rates, assessments, etc. in respect of the land". If so, it would be possible to charge rent not only equal to the n.a.a., as proposed by the Collr. but also at 5% of the full market value of the land, as the Gokak Mills is utilising the land for profitable purposes. However, the point is not quite free from doubt. The R.L.A. may, therefore,

114

to state

requested

therefore be ~~consulted~~ u.o. on the point whether || A
it would be legally possible to increase the rate of
~~the view taken above is correct or not.~~
17/8/54 Rent by revising the rate mentioned in the lease.
18

as proposed at H.

D.S.

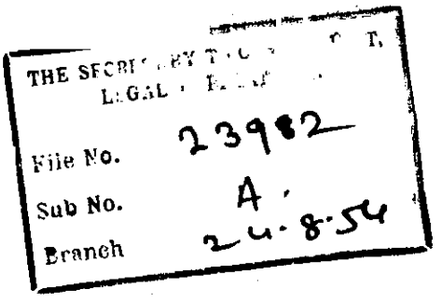
18/8

Under Secy Rev. A, dt 20th Aug. 1954

(i) with (ii) lease

(ii) proposed

3541/36, 3541/36,
3541/36-IX and
mg/48.



Legal Department.

The question raised for consideration is whether under the lease dated 31-7-1894 between the Secretary of State for India in Council and the Gokak Water Power and Manufacturing Co.Ltd. it is competent for the State Government to enhance the rent payable in respect of the lands leased. According to the lease lands are demised unto the lessee yielding and paying therefor during the term of 99 years "certain yearly rent of rupees two hundred and seventy three and five annas (being at the rate of as. 4 per acre) by yearly payments on the first day of June in every year, etc.". The amount of rent is thus fixed being calculated at the rate of as.4 per acre. Under clause 1 of the lessee's covenants the lessee agrees to pay to the lessor, at the times and places thereinbefore respectively specified, the yearly rents or sums, clear of all deductions. Under clause 2 the lessee agrees to pay all existing and future taxes, rates, assessments, cesses and outgoings of every description for the time being in anywise payable in respect of the lands. The R.D. considers that in view of the words "future taxes, rates, assessments etc." it would be possible to charge rent at an enhanced rate. But this view of the R.D. does not appear to be correct. Reading clauses 1 and 2 of the lessee's covenants it would be seen that whereas the former provides for the payment of rents, the latter provides for the payment of other sorts of dues like taxes, rates, assessments, etc. Since the rate of rent of Rs,273-5-0 has been fixed in respect of the full period of the lease, it does not appear it would be feasible to increase thatrate.

REVENUE DEPARTMENT
File No. Rwd MISC 1ST 74269
28 OCT 1954

Special No. 117536
(with lease & P.W.D. file nos. 3541/36; 3541/36, 3541/36-IX & 249/48)

MAP/- 28/10.

Joint Secretary to Government.

U.R. to R.D.No. 24434/A, dated the 28th October 1954.

57

Q. 8

P

Submitted w.r. the O.N., dt. 18-8-54 at

Pgs. 113-114 ante.

D. 26 legal position reg. increase of rate of rent yp. land leased to the Gokak Mills has been explained at the instance of the Hon. note at p 115 ante dt. 28-10-54. In view thereof, the Pgs. may now be returned to the P.W.D. with the intimation that the proposed enhancement of the rate of rent of the land would not be justifiable.

1/11/54

DS. 1/11

Secy 4.11.54

(R) with files 298/48, 3541/36-IV, 3541/36 (1949); 3541/36 (1950-51) to the P.W.D., &c. 5th Nov. 1954

J/8/11 lease 5 (nine)

P. W. D.
File No. MDC 1151
147756

10/11

J 6-11-54

MIP 1153/144828/147756.

P. W. D.

'J' Br.

Submitted with reference to office note dated the 26-5-54.

2. The papers were referred u.o. to the R.L.A. and the R.D. for remarks on the following two points

(i) whether it will be in order to charge the Company a water rate of Rs. 6/- per 10000 cft. for the water used by them for purposes other than drinking and power generation, after considering the legal implications of such provisions or workings contained in the agreement in respect of "liberty" to the mills "To use free of charge" or "without any payment" any natural excess of water during certain months on any water drawn from their own storage works as appear in the latter portion of the 2nd paragraph on page 3 of the indenture executed on 31-7-1894.

(ii) to consider whether in view of the agreement with the mills, whether it is justified, notwithstanding the agreement, to levy the enhanced assessment of Rs. 22,244/14/0 as against Rs. 297-8-0 now paid by the mills, on the lands leased to the Company

3. As regards the first point please see the L.D. note dated the 28-7-54 wherein it is stated that the view already expressed by the R.L.A. needs no modification. The S.E. may therefore, be informed that he should ask the Company to pay the water rate at Rs.6/- per 10000 cft for the water used by them for purposes other than drinking and power generation.

4. As regards the 2nd point the R.D. had referred the papers to R.L.A. for opinion, who has stated that it does not appear that it would be feasible to increase the rate of rent of Rs. 273-5-0,

which....

which has been fixed in respect of the full period of the lease. The R.D. therefore has stated that no enhancement of the rate of rent of the land would be justifiable. The S.E. may, therefore, be informed accordingly.

5. Please see para.5 of the G.L., No.MIC 1151-J, dated the 24-3-53, wherein the S.E. was requested to incorporate in a formal agreement with Gokak Mills the provisional permission granted to the Mills in 1901 to raise the level of the weir to R.L. 1985.50. After the company agrees to the amendments to the original agreement as suggested in para 3 of the same G.L. In this connection please see the correspondence at pp. 83-87 ante, from which it will be seen that the Company, before agreeing to enter into a formal contract, after ~~agreeing to~~ accepting the amendments to the original contracts suggested by Government, desired ~~suggs~~ to carry out a survey by surveyors approved by Government and the Mills, to which the S.E. has consented. It is not yet reported by the S.E. whether the surveys were carried out and whether the Company agrees to enter into a formal agreement. The S.E. may, therefore, be requested to report further developments in the matter.

6. Please see the S.E's. letter No.D.I.6 dt. the 28-10-54, at p.121 ante. As it has been decided that no enhancement in the rate of rent of the land leased to the Company would be justifiable, and as the decision is being conveyed to the S.E., no separate action is necessary on this letter.

7. The necessary draft put up for approval may issue.

Thro. DE(9)

Letter may issue "Confdl"

DS(9<E)
C.E(9)<Jt.Secy.
Secy

59 MIC 1151/40149

T.Br. P.W.D.

b/f 77-78 c/s

Submitted for information.

2. In view of paras. 4 6-B & 7 of the S.E., b/f 77-78 c/s K.I.C's letter No. B.M.I.6, d the 17-3-1955, further report may be awaited from that officer.

Thro' D.E.(9)

DJC. 16/4/55

19/4

19/4

D.S(I)

Thereat 20-6-5 5.

19/6

h. SG 24/6/55

T.Br. P.W.D.

The S.E., K.I.C., has been expedited on 27th June 1955.

25/6/55

DK. 25/6/55

Issue exp. 24/6

Supdt.

I SULD Sec. Date 27/6

Advt. by 28-7-55 28/6/55

MIC 1151/95865

T.Br. b79 c/s P.W.D.

Await.

28/7/55

Supdt. DJC. 28/7/55

Advt. by 28-8-55 28/7/55

For further correspondence
pl. see MIC 115J

8796—[illegible]—9-42
G. R., H. & L. Ch. D., No. 2530[illegible], dated 30-12-42.]

Scott, Slip 53 c;

SEPARATOR

No. Bm.I.6

Office of the Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar, 1951.

To

The Executive Engineer,
Ghataprabha Left Bank Canal Division,
Ghataprabha.

Subject: Water supply to Gokak Mills.

Your attention is invited to Government ~~xxxxxxxxx~~ Endorsement No.298/48-J dated 18-7-1951 and it is observed that the report called for in this office No.Bm.I.6 dated 20-2-1951 has not yet been received. It is over four months the Government call is pending and you should please see that the report is sent without any further delay.

Superintending Engineer, K. I. C.

Copy f.w.cs. to the Chief Engineer, Public Works Department Bombay.

2. The report will be transmitted to Government with remarks as soon as it is received from the Executive Engineer.

BR/13-8.

2

J 18/8

D.
MIC 11.51

71784

J
17-51

D.O.No. M.I.(1),

Office of the Superintending Engineer,
Karnatak Irrigation Circle,
Camp via Dharwar, 24th August 1951.

Dear Joglekar,

Reference: Your D.O.No.298/48-J, dated the 20th August 1951.

I contacted the Executive Engineer, Ghataprabha Left Bank Canal Division personally who informed me that there was slight discrepancy in the levels so far taken. I have asked him to run the levels according to precision methods and report the result within a week.

Yours sincerely,

Shri. K.V.Joglekar, B.E., B.S.E(I),
Deputy Secretary to Government,
Public Works Department, Fort,
BOMBAY-1.

Copy f.w.cs. to the Executive Engineer, Ghataprabha Left Bank Canal Division, Ghataprabha, for compliance in continuation of the personal talk on 24-8-1951.

J 24

P. W. D.
File No. MIC 1151
74269

Express Letter 45

From: Bamworks, Bombay

To: ~~The~~ S.E., K.I.C., Dharwar.

No. MIC. 1151. J

P.W.D.,
B.C. (Bibvay) No
24th Sept 51

Refce: Correspondence ending with your D.O. No. M.I. (1), dt. the 24-8-51, addressed to Shri Joglekar, regarding lowering of the height by the Gokak Mills Ltd. of their Pick up-Weir and the use of water by the Mills.

2. Please expedite submission of the requisite information

Issued 25-9-51

Issue ~~+ Sd~~ for Asstt. secy. to the G.O.C.B. P.W.D

22/9

24/9/51

ಪ್ರ. ಕ್ರ. ೪೬ ಎಸ್‌ಕೆಸಿ
೩೯/೪೯ ಆ ೨೯/೭೦

J.N.

P.W.D.

The S.E., K.I.C., expedited under
No. MIC 1151-J, dt. the -10-51

20/10/51

47

Letter.

Very Urgent.
No.B.M.I.(6)

Office of the Executive Engineer,
Ghataprabha Left Bank Canal Dn.
Post: Ghataprabha Dist.Belgaum.
Dated 28th August 1950

To

The Manager,
The Gokak Mills Ltd.,
Gokak Falls.

Dear Sir,

According to the agreement entered into by the Gokak Mills with the Government, the Mills were permitted to make an addition of a temporary character to the top of the crest of their pick-up-weir at the head of the rapids above the Gokak Falls, of 9" so as to bring it to R.L.1984.50 with a gap of at least 50 Ft., in width and down to R.L.1983.75. This gap, when closed, was to be closed only with removable wooden planks or other removable means approved by the Executive Engineer On an inspection of this weir, it is found that -

1) The addition made is not of a temporary character but is one of solid masonry,

2) The addition to crest is not limited upto R.L.1984.50 only as permitted but taken up higher to R.L. 1985.25 all in solid masonry and;

3) The gap of 50 ft., down to R.L.1983.75 is not left but the weir is built with solid masonry without a gap.

I am to request you please to inform me the authority on which these additions, which do not conform with the agreements, have been put up.

2. Further, according to the agreements with Government, the Mills are entitled to the use of the water only for generation of water-power. But it is found that part of the water issued is being used for domestic,industrial and other purposes also. This is an infringement of the existing agreements. If the Mills require water for purposes other than generation of water-power they will have to apply for it and to enter into a separate agreement in that connection. I am therefore to request you please to stop immediately the use of the river water for purposes other than generation of water-power till an agreement for such use of the water is entered into with Government.

Yours faithfully,

Sd/-P.R.Joshi
Executive Engineer,Ghataprabha
Left Bank Canal Division.

Copy forwarded with compliments to the Superintending Engineer, Karnatak Irrigation Circle, Dharwar, for information with reference to his letter No.B.M.I.(6) dated 24th instant.

13-9

THE GOKAK MILLS LIMITED

Gokak Falls,
14th September 1950.

Messrs. Forbes Campbell & Co. Ltd.
Agents Bombay.

No.3190

The Executive Engineer,
Ghataprabha Left Bank Canal Division,
P.O. Ghataprabha (Belgaum Dist.).

Sir,

We refer to your letter date the 28th August and 5/11
the interview granted to the undersigned and our Engineer by your personal assistant Mr. Gupta on the 29th August. We have received a letter from our Head office and now comment on your letter as follows:-

1. A further diligent search through our records reveals that, although permission was given to erect a temporary crest with a 50 ft. gap in the centre, of an additional height of 9 inches, this work was in fact never executed. Careful examination of the permanent crest of the weir indicates that there has been no provision made for the erection at any time, of a temporary crest and although this work could never have been undertaken without the full permission and authority of Bombay office and the work be recorded in our files, we have the additional actual evidence on site that the weir has not been raised either in a temporary or permanent manner.

2. As the height of the weir has not been increased since 1899, the necessity for leaving a gap of 50 ft. does not arise.

3. As none of this work has been undertaken, the need to inform the Executive Engineer of the Authority on which these supposed additions have been made does not arise.

We take it for granted that any work which has been undertaken in the past will be on your records and if these records ~~xx~~ cannot be produced by you and in view of what we have written above, we can only conclude that no further action is required.

The Mills do not consume water for any other purposes than power generation, but as regards the question of using the water for domestic purposes, as explained to Mr. Gupta, the Mill village has been inexistence since the mill started and today the population is approximately 6000. The approximate quantity of water pumped per month for purposes other than the generation of power is 8,09,00 cubic feet which represents 0.05 cusecs or less than 75 thousands of one percent of our total offtake permissible.

The quantity of water pumped plus the water used for power is not in excess of the water to which wex are entitled and if the water is not pumped and supplied by us to the mill village after it has been filtered and chlorinated, the residents will be forced to draw their requirements of water from the river-bed, for which they would not be charged in any case. We feel sure that you would not wish us to take ~~xxy~~ any ~~xxxxx~~ action which would result in possible sickness through the ~~x~~ use of dirty water or reduce our efforts to maintain the standard of living in our mill village at the present level.

Yours faithfully,
For the Gokak Mills Limited

Sd/-
General Manager.

IMMEDIATE.

No.M.I.(1)
Office of the Executive Engr.,
Ghataprabha Left Bank Canal Dn.
P.O.Ghataprabha(Dt. Belgaum),
Dated: 14th September 1950.

Copy forwarded with compliments to the Superintending Engineer, Karnatak Irrigation Circle, Dharwar, with reference to this office endorsement. No.BMI (6), dated 28th August 1950.

Sd/-
Executive Engineer,
Ghataprabha Left Bank Canal Divn.

15-11

BY REGISTERED POST.
VERY URGENT.

No.B.M.I(6)

Office of the Executive Engineer,
Ghataprabha Left Bank Canal Dn.,
P.O. Ghataprabha (Dt. Belgaum),
Dated: 9th October 1950.

To

The Manager,
The Gokak Mills Limited,
Gokak Falls.

Dear Sir,

P 13

Your letter No. 3190 dated the 14th September,1950.

P 11

2. It is now evident that raising of the top of the crest of the pick-up-weir to R.L.1985.25 and construction of the entire weir in solid masonry without the gap as pointed out in this office No.B.M.I.(6) dated 28th August 1950 are done without any authority and amount to breach of conditions of your agreements with Government. I am compelled therefore to ask you to dismantle the extra portions of the weir at your cost within 15 days of the issue of this notice, and to adhere to the conditions laid down in your agreement with Government.

3. Further, you are requested to stop immediately the use of canal (river) water for purposes other than generation of power till a fresh agreement for such use of canal water is entered into with Government. The river is notified as a canal and the use of its water for purposes other than water power is regulated by the Irrigation Act and unauthorised use involved penalty.

Yours faithfully,

Sd/-P.R.Joshi
Executive Engineer,
Ghataprabha Left Bank Canal Division.

Copy forwarded with compliments to the Superintending Engineer, Karnatak Irrigation Circle, Dharwar, for information in continuation of this office endorsement No.M.I.(1), dated 14-9-1950.

By order,

Head Clerk to
S. E., K. I. C.

47-13

THE GOKAK MILLS LIMITED, GOKAK FALLS.

No. 3909 21st November 1950

To

The Executive Engineer,
Office of the Executive Engineer,
Ghataprabha Left Bank Canal Dn.,
P.O. Ghataprabha (Dt. Belgaum).

Dear Sir,

Your letter No. BMI(6)
dated 9th October 1950. 15

Vol 103. 187203

With reference to your letter as above, we have again searched all our old records and have to inform you that on May 3rd 1901 in a letter reference No. 97/M addressed to Messrs. Ritchie Steuart & Co., Agents, Gokak Water Power and Mfg. Co., Ltd., from Mr. John Tate, Secretary to Government, Public Works Department, Mahableshwar, permission was granted to raise the level of the pick-up-weir to RL 1985.5. There is n stipulation in this letter that there should be any temporary crest or gap in the centre of the weir. In view of this latest development, we are now arranging to have the Weir accurately surveyed to establish the actual height and the matter can then be considered further, if necessary.

As regards the use of water, we have carefully studied our agreement with Government, together with the various Indentures thereto, and, in our opinion, the works used therein, i.e. " for the works of the lessees" and " For the purpose of mechanical industry", include all the purposes for which we are now using water. This is further borne out by the fact that we have been using water in identically the same way, under the same Agreement, for the last 56 years and no doubts or queries have ever previously been raised. It will be necessary, for consideration of this matter, to go into the old records, both of our office and of the Central and Bombay Governments. These records would, doubtless, be in Bombay. It would, therefore, be convenient for our Head Office in Bombay to take up the matter with the Government of Bombay at the Civil Secretariat, We would be grateful if you would kindly let us know which department of the Government of Bombay we should address in this connection.

A

Yours faithfully,

For the Gokak Mills Ltd.,

Sd/- I.B.Dick
General Manager.

By order,

47 13

THE GOKAK MILLS LIMITED, GOKAK FALLS.

No. 3909 21st November 1950

To

The Executive Engineer,
Office of the Executive Engineer,
Ghataprabha Left Bank Canal Dn.,
P.O. Ghataprabha (Dt. Belgaum).

Dear Sir,

Your letter No. BMI(6)
dated 9th October 1950. 15

Vol 103
187903

With reference to your letter as above, we have again searched all our old records and have to inform you that on May 3rd 1901 in a letter reference No. 97/M addressed to Messrs. Ritchie Steuart & Co., Agents, Gokak Water Power and Mfg. Co., Ltd., from Mr. John Tate, Secretary to Government, Public Works Department, Mahableshwar, permission was granted to raise the level of the pick-up-weir to RL 1985.5. There is no stipulation in this letter that there should be any temporary crest or gap in the centre of the weir. In view of this latest development, we are now arranging to have the Weir accurately surveyed to establish the actual height and the matter can then be considered further, if necessary.

As regards the use of water, we have carefully studied our agreement with Government, together with the various Indentures thereto, and, in our opinion, the works used therein, i.e. " for the works of the lessees" and " For the purpose of mechanical industry", include all the purposes for which we are now using water. This is further borne out by the fact that we have been using water in identically the same way, under the same Agreement, for the last 56 years and no doubts or queries have ever previously been raised. It will be necessary, for consideration of this matter, to go into the old records, both of our office and of the Central and Bombay Governments. These records would, doubtless, be in Bombay. It would, therefore, be convenient for our Head Office in Bombay to take up the matter with the Government of Bombay at the Civil Secretariat, We would be grateful if you would kindly let us know which department of the Government of Bombay we should address in this connection.

Yours faithfully,

the Gokak Mills Ltd.,

Sd/- I.B.Dick
General Manager.

By order.

49 15

By Regd.Post. A.D.

No. B.M.I.6/[illegible].

Office of the Executive Engineer,
Ghataprabha Left Bank Canal Division,
P.O.Ghataprabha, 5th February 1951

To

The General Manager,
Gokak Mills Limited,
Gokak Falls.

Subject:- Supply of water to Gokak Mills.

Dear Sir,

Reference: Your letter No.3909 dated 21st Nov.1950. 17

2. You will please see that the provisional permission to temporarily raise the mill weir to R.L.1985.5 was accorded by Government in the year 1901 under certain conditions and subject to execution of a formal agreement in this connection. Government have made clear in their letter of 1901 referred to by you that such provisional permission does not prejudice ~~x~~ the rights of Government of withdrawing the permission, should Government at any time, before formal agreement is ~~wit~~ executed, exercise the power (which is expressly reserved) of withdrawing it. The latest agreement executed in 1938 does neither mention nor confirm the provisional permission accorded to raise the weir to R.L. 1985.5 but clearly lays down that the maximum level of the top of the mill weir should be at R.L.1984.5 on the same terms of the agreement of 1899 i.e. with a 50 ft. gap at the centre to R.L.1983.75 and such gap shall, when closed, be closed only with removable wooden planks etc.

3. It is, therefore, evident that raising of the top of the weir to R.L.1985.25 and construction of the entire weir in solid masonry without a gap as pointed out in this office No.B.M.I.6, dated the 28th August 195[illegible] are unauthorised in terms of your agreement with Government. I am, therefore, compelled to ask you to dismantle the extra portions of the weir at your cost within 15 days of the receipt of this notice and to adhere to the conditions laid down in your agreement with Government. 11

4. The use of water for other than Industrial purposes and not covered by the agreements should please be stopped until a fresh agreement to use the water for such purposes is executed. The question of usages of the water for any length of period in the past does not affect the rights of Government and is not applicable in this ~~connection~~ case.

5. This office can deal with the matters referred to above but for your information, I may state that the subject pertains to the Public Works Department of the Government of Bombay.

Sd/ P.R.Joshi

Executive Engineer,
Ghataprabha Left Bank Canal Division.

By order.

Head Clerk to
S. E., G. L. B.

Copy f.w.cs. to the Supdg.Engineer, K.I.C.,Dharwar, for information with reference to his No.B.M.I.6, dated the 29th January 1951.

Copy.
BR/28-9.
Compd.by:

Letter
No. B.M.I.(6)/P

Office of the Executive Engineer,
Ghataprabha Left Bank Canal Division,
P.O.Ghataprabha, 20th Sept.1951.

To

The Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar.

Subject:- Water supply to Gokak Mills.

Reference: Government Endorsement, P.W.D.No.298/48-I.B.(II) dated the 15th February 1951 and subsequent reminders.

Slip A
File 298/48
P 69

2. With reference to Government Endorsement quoted above, I submit my report as under.

3. As per the agreement of 1897, further supplemented by another agreement of 1899, the Gokak Mills were allowed to construct a weir at the head of the Gokak Falls, having its top up to R.L.1985 1984.50 leaving a gap of 50 ft. the middle of which was to be closed by temporary means of removable character.

4. On actual inspection of the weir, it was found that it has been constructed of continuous solid masonry with no gap in the middle and on verification of levels, it was found that the Weir top was actually at R.L.1985.25 as against the stipulated R.L.1984.50. It was then doubted if there was any other agreement subsequently executed permitting the Mills to have a continuous solid weir with its top at the present level. No record came forth in this office in support of this. The matter was, therefore, referred to the Collector of Belgaum. The Collector, however, after some correspondence, replied finally that he had nothing on record in this connection. The Mills also could not satisfactorily point out any Government agreement authorizing them to construct the top of their Weir to R.L.1985.25 and to omit the 50 feet gap stipulated by the original Government agreement.

5. It was, therefore, evident that the Mills had raised the level of their weir unauthorizedly and they were, therefore instructed to dismantle the unauthorized extra raising immediately and conform to the terms laid down in the agreement.

6. The Mills then pointed out that as per a letter No. 97/M dated the 3rd May 1901 addressed to them by the Secretary to Government of Bombay, they were permitted to raise the level of their weir to R.L.1985.50 and that the letter did not stipulate any gap in the weir to be filled in by temporary means. This correspondence is available on record of this office and a study of the same reveals that only provisional permission to raise the Mill Weir temporarily to R.L.1985.5 was accorded by Government in the year 1901 under certain conditions and subject to execution of a formal agreement in this connection. But no such agreement appears to have been executed by the Mills till now.

× Vol 103 of 1899-03 Slip K

By order,

Head Clerk to
S. E., K. L. C.

7. This fact was pointed out to the Mills and they were served with a notice to dismantle the Weir to the stipulated level R.L.1984.50 within 15 days and to adhere to other conditions laid down in the agreement such as leaving 50 ft. gap etc.

8. .....

8. In the meanwhile the Mills referred the matter to Government and a stay order has been issued by Government. No further action on the notice issued to the Mills was, therefore, taken by this office, pending final orders of Government in the matter

9. Levels of the Mills Weir top have been verified several times and are found to concur with the levels already reported, the values being within the range from R.L.1985.16 to 1985.32.

10. Another question is the unauthorized use of water by the Mills for purposes other than water-power as permitted by the agreement. The agreement allows the Mills to use the river water for waterpower for mechanical industry. But it was noticed that they were using the water also for (a) domestic purposes, (b)gardens, etc. and (c) industrial uses such as for boilers etc. Actually they are pumping about 8,09,000 cft. per month for these unauthorised purposes, which are not allowed by the agreement. They were, therefore, asked to stop this unauthorised use of water immediately. To this they have replied that the agreement includes all the purposes for which they are using water and that although they have been using water in identically the same way for the purposes for the last 56 years on the authority of the same agreements, no objection was raised so far. The question of the use of water by the Mills for any length of period in the past for domestic and other purposes not covered by the agreement should not affect the rights of Government. The Mills were, therefore, asked by a notice to stop such unauthorised use of water until a fresh agreement to use the water for such purposes is executed by them.

11. Government orders on the two points mentioned above are requested at an early date.

O.C.approved by
the Ex.Engineer.

Sd/ M.S.Tatti,

for Executive Engineer,
Ghataprabha Left Bank Canal Divn.

~~23~~ 19

Below letter No.B.M.I.(6)/P dated the 20th September 1951 from the Executive Engineer, Ghataprabha Left Bank Canal Division addressed to the Superintending Engineer, Karnatak Irrigation Circle, Dharwar.

No. Bm.I.6

Office of the Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar, 28th Septr.1951.

Copy forwarded with compliments to the Chief Engineer to the Government of Bombay, Public Works Department, Bombay with reference to Government endorsement No.298/48-I.B.(II) dated 15-2-1951.

x Slip A
file 298/48
p 69 of c/s

2. The Executive Engineer's report fully covers the points raised by M/s. the Gokak Mills Ltd. and confirms the facts previously reported in this office U.O.R.No. Bm.I.(6) dated 9-4-1950 on which Government had directed to address the Gokak Mills in the matter.

p/p 21-22

— do —
p 7 of N/s

3. The Executive Engineer, Ghataprabha Left Bank Canal Division has got the levels of the existing Mill weir, verified again by precision method and it is found that the top of the Mill weir varies within the range of R.L.1985.16 to R.L.1985.31 as against R.L. 1985.25 previously reported. There is no objection to the survey by a neutral surveyor with the staff of the Ghataprabha Left Bank Canal Division and of the Mills in attendance. It is not quite clear whether the Mills consider that the top level of weir permitted according to their agreement is R.L.1985.50. If so, it is not borne out in the latest agreement and anything above R.L.1984.50 will have to be considered as not authorised.

4. As regards unauthorised use of water for purposes other than water power, it is believed that the Mills' contention of usage cannot stand. But this will have to be confirmed by legal opinion. It is not that we refuse to allow them the use of the water but they should use it under a separate agreement with Government.

⊗ — do —
p 57 of c/s

5. As the Mills have not complied with the instructions issued to them, the copies of correspondence with the Mills are submitted herewith as instructed in para 4 of Government letter, P.W.D., No.298/48-I.B.(II) dated 2-8-1950. The correspondence was carried on through the Executive Engineer, Ghataprabha Left Bank Canal Division for the reasons stated in this office No.B.M.I.(6) dated the 24th August 1950.

⊖ — do —
p 59 of c/s

Karkag 28/9

Superintending Engineer, K. I. C.

D.A:-
Copies of correspondence in 6 sheets.

J 11.'19.
IBrill Cyrill
m/10

L. M. D.
MICHIGAN
87426

File J 13/10
11-7-51

Letter

MIC 1151/87426.

No. MIC 1151-J.

P.W.D.
B.C. (Bombay No. 1)
20th November 1951

To

The S.E., K.J.C.

Subject :- Water supply to the Gokak Mills.

Refce: your endt. No. Bm.I.6, dt 28.9.51.

2. The C.E., P.W.D., will inspecting the weir at the head of the Gokak Mills Ltd., refd. to in your endt. under refce., when he visits the Ghataprabha Left Bank Canal during the ensuing touring season. You are requested to keep the case papers ready and show him the same, accordingly during his visit.

D.A. Nil

By order of the G. of B.

A.S. to the G. of B., P.W.D.

Copy to the Ex. Engr., Gh. L.B. Canal Dn. with refce. to his letter No. Bm.I.(6)P, dt 20.9.51, to the S.E., K.J.C.

15.11.51

Issued
17/11/51

23-3-51

33-23

No. B.M.I./6 Office of the Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar, 14th June 1952.

To

The Chief Engineer to Government,
Public Works Department,
Bombay-1.

Subject:- Water supply to Gokak Mills.

Reference: Government letter No. MIC-1151-J, dated the 20th November 1951.

The subject of the Gokak Mills weir was discussed with the Chief Engineer to Government at Ghataprabha on 2-6-1952. The Chief Engineer considered that as provisional permission to raise the level of the weir to R.L.1985.50 was given in 1901, we need not insist on the lowering of the weir level now even though the permission was not incorporated in the subsequent formal agreement. This will have to be incorporated in a formal agreement now.

As regards use of water for purposes other than generation of power (viz. water supply to the Colony etc.) the Mills will have to enter into a separate agreement. The matter may, however, be scrutinised from a legal point of view before addressing the Mills.

Superintending Engineer, K.I.C.

BR/14-6.

MECH151
56977

CONFIDENTIAL.
No. B.M.I.6.

Office of the Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar, 22 Octr. 1952.

To

The Chief Engineer to Government,
Public Works Department, Bombay-1.

Subject:- Water supply to the Gokak Mills.

Reference:- In continuation of this office letter No. B.M.I.6 dated the 14th June 1952.

As regards para 1 of the abovequoted letter, reference is requested to the suggestion offerred in the latter part of sub-para 1 to para 9 of this office letter No. D.I.6(Confidential), dated the 23rd Septr. 1952, as to forcing issue in respect of the crest level of the Company's pick-up weir. In connection with that suggestion it may be mentioned here that no formal agreement has been entered into incorporating the provisional permission given to the Company in Government letter, P.W.D., No. M/97 dated 3-5-1901 for temporary raising of the Company's weir upto R.L.1985.50. Hence, in view of the terms in para 4 of the Government letter, P.W.D., No. 290/1 dated the 26th April 1901, the raising of the weir done by the Company, ranging between R.L. 1985.16 to 1985.31, in solid masonry in the entire length of the weir (without any gap), is at their own risk.

Even the formal sanction accorded in the subsidiary agreement dated the 10th June 1899 for the raising of the weir from R.L.1983.75 to R.L.1984.50 (which sanction was, besides, given with the clear stipulation that the raising should be of a merely temporary character with a gap of at least 50 ft. in width down to the R.L.1983.75) could be withdrawn by the determination of the subsidiary agreement after issue of a notice to the Company in that connection by the Executive Engineer. Government would, therefore, be in its own rights to have the crest of the Company's pick-up weir reduced by the Company to conform at least to the limits formally authorised by the agreement executed on the 10th June 1899 so long as the modification is not entered in a formal agreement.

2. In case, however, it is finally decided that lowering of the weir level need not be insisted upon, it is suggested that, while incorporating in a formal subsidiary agreement the increased level of the Company's weir provisionally permitted by Government in their letter of 1901 referred to above, occasion may be availed of, at the same time, to effect some changes in conditions contained in the previously executed agreement, which are inconvenient to Government.

3. Some modifications as under are proposed for the consideration of Government:-

(1) Existing maximum limit for water supply to the Company:- According to the terms of agreement as existing at present, the Company have the right to have, and may requisition from Government (giving requisite notice of periods stipulated in the agreement), extra supply of water over and above the equivalent of 68 cft. of water at present being supplied, upto and not exceeding

136 cft..

136 cft. per second. Government has to supply or be ready to supply such extra quantity of water if requisitioned by the Company. In order to meet this requirement, Government has to do its best, doing everything necessary, by the erection and maintenance of storage and other works of adequate capacity, suitable and sufficient for the purpose of ensuring to the Company, the supplies of water to which they are entitled by the agreement. Please vide Clauses III and VII of the subsidiary agreement dated the 20th August 1897; clause 13 of the agreement dated 31st July 1894 and conditions on page 3 of the latter quoted agreement (which conditions, although modified by the subsidiary agreement dated the 20th August 1897, are subject to revival in case the subsidiary agreement dated the 20th August 1897 be determined). Clause 20 of the agreement dated the 31st July 1894 also, calls for reasonable diligence and expedition on the part of Government to construct or proceed with the construction of any works, dams or reservoirs which may be necessary to provide for the use of the Company the extra supply of water from the river and falls (upto a quantity of 136 Cft.per second).

Further, it is only in the event of a request from the Company for a larger supply of water of over 136 cft. per second guaranteed, that, Government has, under the existing terms (under proviso (c) in clause 13 of the agreement dated the 31st July 1894), the absolute and indisputable power of deciding whether Government is or is not in a position to furnish with reasonable facility and without unreasonable expense, any such additional supply of water to the Company (of over 136 cft. per second.).

As Government is not in a position to give to the Company a supply of water over and above 68 cft. per second, either continuous or an intermittent equivalent thereof, it is necessary to amend the conditions of the agreement so as to restrict the limit of maximum supply of water to the Company to not more than an equivalent of 68 cft. per second which is the quantity at present being supplied to the Company. It will have also to be considered if we should not restrict supply to 68 cusecs and not its equivalent.

(2) Existing provision in the agreement as regards its renewal:-

The wording of clause 18 of the agreement dated the 31st July 1894, is not quite proper in that it savours of a sort of compulsion on Government by laying down that merely if the Company is desirous of taking a renewed lease and if such desire on the part of the Company is intimated by them to Government six months prior to the expiry of the term or period of agreement and if the Company executes and delivers to Government a fresh agreement, Government shall "forthwith execute and deliver to the lessees a renewed lease" for such further term at such rent or rents and under and subject to such covenants, provisoes and agreements as Government shall think necessary or proper. Of course, if Government is not inclined to renew the lease, it would be open to Government to lay down new covenants, provisoes etc. such as would not be acceptable to the Company. But it appears desirable to modify the unsuitable wording of the clause quoted above, so as to make provision in the clause for the choice to Government for entertainment or rejection of the Company's request for renewal of the lease, irrespective of whether the Company has or has not fulfilled all the conditions or terms of the present agreement.

The wording of the clause as to delivery of a notice...

notice by the Company at the India/ Office in London, may also be amended at the same time.

(3) Existing provision entitling the Company to construct, at their cost, storage works for supply of water larger than 136 cft. per second.

Clause 15 of the agreement dated the 31st July 1894 provides that if at any time during the term of agreement, the Company shall require a supply of water larger than 136 cft. per second and shall be willing at their own expense to construct the necessary storage works for this purpose, they shall be entitled to do so but so as not to prejudice or interfere with the supply of 136 cft.per second or the existing irrigation works of Government.

Suitable modification of this clause would be necessary if the modifications suggested at item No.(1) above be accepted. It, however, appears to be desirable to delete clause 15 altogether.

Superintending Engineer, K.I.C.

18-10.

P. W. D.
File No. MIC·1151
Serial No. 1[illegible]41

Confidential. Letter. 4

No. MIC 1151-J.

P.W.D.
B,C.(Bombay No. 1),
24/12 March, 1953.

To

The S.E., K.I.C.

Subject:- Water Supply to the Gokak Mills.

Reference correspondence ending with your letter (confidential) No. B.M.I. 6, dated the 22.10.1952.

2. With regard to your proposal for the renewal of the agreement with the Gokak Mills I am directed to state that it is ~~much~~ doubtful how far the Mills will agree to this amendment. However, after the lease period is over it is for Government to renew the agreement or not and at that time Government may impose any new conditions so as to take away all the facilities the Gokak Mills are now enjoying. In the circumstances it is considered not -- necessary to amend this condition at present.

3. As regards the other modifications proposed by you viz. (i) to restrict the maximum supply of water to the Company to not more than an equivalent of 68 cubic feet per second and (ii) to amend the clause regarding the delivery of a notice by the Company at the India office in London, I am to state that Government cannot legally enforce these conditions on the mills, but taking advantage of the fact that the mills have constructed the weir above the permissible height they may be forced to agree to these amendments. You are therefore requested to ask the mills whether they are agreeable to these proposed -- modifications.

4. As regards the raising of the weir at the Head of the Gokak Falls by the Gokak Mills Ltd., you are requested to incorporate in a formal agreement with Gokak Mills the provisional permission granted to the mills in 1901 to raise the level of the weir to R.L. 1985.50 after complying para 3 above.

5. You are also requested to inform the mills that they should pay water rate with effect from 15.2.1953 at the rate of Rs. 6/- per 10,000 cft. for the water used by them for purposes other than drinking and power generation.

A copy....

[37]

A copy of the R.L.A's opinion in this connection is enclosed herewith for information.

By order and in the name of the Govr. of Bombay,

[15 N/S]

Deputy Secy. to Government,
P. W. D.

D.A.- A copy the R.L.A's opinion referred to.

16/3/53

S.G./16-3-53.

× p.39 to be typed p.l.

Issue + return the copy.
Issue + return 24/3.

Issued
25/3/53

Aut (10-4)
24.3.

55' 31

CONFIDENTIAL:

LETTER.

From

Shri R.C.Joshi, I.C.S.,
Collector of Belgaum.

To

The Superintending Engineer,
Karnatak Irrigation Circle,
D H A R W A R.

No. I.R.R/ Belgaum, 30th March 1953.

Subject:- Lease with Gokak Mills Ltd.

Reference:- This Office endorsement of even No. dated 26-6-1952.

After offering my remarks I considered it necessary to enquire to what extent N.A.Assessment should be increased as the rent now charged to the Mills is too low. The area in charge of the Gokak Mills is 1116 Acres and 8 Gunthas as can be seen from village Form II and no 1093 Acres, 6 Gunthas as stated by me previously. The whole area of 1116 Acres, 8 Gunthas is used for industrial purpose. The N.A.Assessment received from the Mills is very low, when compared with the profits derived by the, From para 4 of your letter No. DI.6 dated 23rd September 1952 addressed to the Chief Engineer to Government it is seen that the Mills are getting an annual rent of Rs.9814/- from the buildings occupied by the labourers etc. whereas N.A.Assessment of Rs.297-8-0 only is being paid to Government annually.

The above area comprises of 3 villages and the maximum N.A.Assessment fixed for these 3 villages can be levied on the area in possession of the Mills. Thus the N.A.Assessment which the Mills will have to pay for the whole area is worked as under:-

Village.	Area.	Maximum rate of N.A.Asst.	Rate per acre in round - figures.	Total amount of annual N.A.Asstt
1	2	3	4	5
1) Gokak.	A.G. 312-10	1 Pie per.	25- 4-0	7,884- 6-0

1	2	3	4	5
	A.G.			
2) Dhupdal.	143-18	½ pie per Sq.Yard.	12-10-0	1,811- 0-0
3) Konnur.	660-20	½ pie per Sq.Yard.	19- 0-0	12,549- 8-0
				22,244-14-0

It will be thus seen that the N.A.Assessment to be paid by the Mills will come to Rs.22,244-14-0 as against Rs.297-8-0 now paid by the Mills.

In the circumstances Government may be moved to levy the N.A.Assessment over the lands leased to the Gokak Mills at the maximum rate worked out above.

Collector of Belgaum.

Copy W.Cs to the Chief Engineer to Government, P.W.D., Bombay, for information.

L-25/3

M.I.C.1153

38159

Express letter 33

From: Bomworks, Bombay.

To The S.E., K.I.C., Dharwar

No. MIC. 115-1 - J

P.W.D.,
B.C. (Bombay No. 1)
30th May 53

Please refer to the Govt. confdl. P.53-54
letter of even number dated the 24-3-53 regarding water supply to the Gokak Mills and report the action taken by you in the matter

ISSUED
1-6-53

Shirhatti
30/5/53

Supdg., P.W.D. Bombay
30/5/53

21C.115-1 | 3815-9

S. Rm.

Resubmitted with a draft D.O letter for approval. P.61

30/6/13

30/6

D.S.(9+E)

Shri D
26/6

D.O.No. MIC.115-1-J

P.W.D. Secty

Bibaug No.

30th June 53

Dear

Please refer to G.L. (Confdl.) No. MIC. 115-1-J, dated the 24-3-53 and subsequent reminders of even number dated the 30-5-53, regarding water supply to Gokak mills and expedite submission of your report on the action taken by you in the matter

Yours

(M.S. Chakravarti)

Shri A.G. Naik, B.E., B.S.E.(I),
S.E., K.I.C.
Dharwar

30/6/53

D.O. No.MIC 1151-J.

Public Works Department
Secretariat.
Bombay No.1, 30th June 1953.

Dear

Please refer to Government Letter (Confidential) No.MIC-1151-J, dated the 24th March 1953, and subsequent reminder of even number dated the 30th May 1953, regarding water supply to Gokak Mills and expedite submission of your report on the action taken by you in the matter.

Yours

30/6

(M.S.Chakravarti)

Shri A.G.Naik,B.E.,B.S.E.(I),
Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar.

PA.
).6.53.
30-6-53

ISSUED
1-7-53

D.O.No.MIC. 1141-J 29 47

P.W.D. Secty.
Bombay No. 1
4th Aug 53

Dear

Please refer to the correspondence ending with my D.O. letter of even number dated the 30-6-53 regarding water supply to Gokak Mills

As the case is pending for a long time, I am to request you to look into the matter personally and submit your report on the action taken by you at an early date

Yours

(M.S. Chakravarti)

Shri A.G. Naik, B.E., B.S.E. (I),
S.E., K.I.C. Dharwar.

1.63

44 65

D.O. No.MIC 1151-J.

Public Works Department
Secretariat.
Bombay No.1, 4th August 1953.

Dear Sh. Naik

Please refer to the correspondence ending with my D.O. letter of even number dated the 30th June 1953, regarding water supply to Gokak Mills.

As the case is pending for a long time, I am to request you to look into the matter personally and submit your report on the action taken by you, at an early date.

Yours sincerely

o/c

(M.S.Chakravarti)

Shri A.G.Naik,B.E.,B.S.E.(I),
Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar.

Issued
5-8-53

7443

CONFIDENTIAL.
No. B.M.I.6.

Office of the Superintending Engineer
Karnatak Irrigation Circle,
Dharwar, 3rd Aug. 1953.

To

The Chief Engineer to Government,
Public Works Department, Bombay-1.

Subject:- Water supply to the Gokak Mills.

Reference: Government letter, P.W.D., No. MIC-1151-J(Confl.) dated the 24th March 1953 and subsequent expeditors. P 53-54

A reference, on the lines of the instructions contained in paragraphs 3 and 5 of the Government letter, has been made to the Gokak Mills, and their ~~xxxx~~ reply as to the proposed amendments in the agreement, mentioned in paragraph 3 of the Government letter, is awaited.

2. On the Mills giving their willingness to the proposed amendments, a draft agreement incorporating the provisional permission granted to the Mills in 1901 to raise the level of their weir to R.L.1985.50, will be submitted to Government in compliance of the instructions in para No.4 of the Government letter.

3. As regards the opinion of the R.L.A., copy P. 3-9 of which has been sent to this office with the Government letter, I would, however, like to state as follows:-

The river in question has been notified under the Irrigation Act, and water from the river will have to be dealt with under the Irrigation Act.

C 41815

The water used by the Mills is also not natural flowing water in the river during the whole of the year. After about November, there is no natural flow in the river, and water stored in the Dhupdal lake is let down, and the Mills are using that water and not natural flowing water. Further, water is not taken from the river bed, but a weir is built and diverted into the power channel from which water is pumped for gardening, drinking and industrial use.

The water is also not taken by human agency but pumped on a large scale.

4. It may, therefore, kindly be ascertained from the R.L.A. if the considerations mentioned above, in paragraph 3, are covered by the Sections of the Bombay Land Revenue Code and Indian Easements Act mentioned in paragraph 2 of the R.L.A's opinion.

Superintending Engineer, K. I. C.

1-8.

P. W. D.
File No. MJC 1157
Serial No. 91522

Confidential.
No. MIC. 1151 - T

Letter 29
45

P. W. D.,
B. C. (Bibay No. 1),
5th Sept. '53

To

The S. E., K. I. C.

Subject Water supply to the Gokak Mills.

Reference: Para. 3 of your letter (Confidential) No. B. M. I. 6, dt. the 3-8-53 P. 71

2 A copy of the R. L. A.'s opinion in this connection is enclosed herewith for information P. 71.

3 The draft agreement referred to ....

reference to para 2 of your above-
mentioned letter is awaited

By order &c

Asstt. Secy. to the Govt. of India

2/11/93

xpts to be typed
DR.

D.A. A copy of
the R.L.A's
opinion
referred to.

8/11/93

D.O.No. B.M.I.6.

Office of the Supdtg. Engineer,
Karnatak Irrigation Circle,
Dharwar, 8th Aug. 1953.

Dear Shri Chakravarti

Re: Your D.O.No.M.I.C.-1151-J, dated the 4th August 1953.

MIC.1151
9/5-22 and
A.71

Please see this office letter No. B.M.I.6, (Confidential), dated the 3rd August 1953, issued in reply to the Government reference regarding water supply to the Gokak Mills.

Yours sincerely,

Note by [illegible]

To

Shri. M.S.Chakravarti,
B.E., A.M.I.E.(Ind.),B.S.E.(I),
Deputy Secretary to the Govt.of Bombay,
(Irrigation & Electricity),
Public Works Department,
BOMBAY-1.

MIC.1151/9449 P.W.D.

J.B.

Ans 1P 1153 — P 228

The S.E.'s reference quoted overleaf has been received and the papers have been returned ~~no~~ to the R.L.A. ~~today~~ on 12-8-53

Await

13/8/53

13/8/53

Supdt

I/M

MIC1151

No. 9449

J

S-3127

Copy of letter No.B.M.I.6, dated 14th July 1953 from the Superintending Engineer, Karnatak Irrigation Circle, Dharwar, to M/s. The Cokak Mills Ltd., Forbes Building, Home Street, Bombay, regarding Water Supply to the Gokak Mills.

"Reference: Correspondence ending with your letter dated the 12th February 1951 addressed to the Chief Engineer to the Government of Bombay, Public Works Dept.

The crest levels of the Mills' pick-up-weir were since verified again by precision method, and the crest level of the weir is found to vary between R.L.1985.16 to 1985.31. The present height of the weir is thus definitely not within the level permitted by the Mills' agreement with Government, as stated by you, since the latest agreement executed in 1938 also recites that the maximum level of the top of the Mill's weir should be at R.L.1984.50 according to, and subject to the conditions as laid down in, the Indenture dated the 10th day of June 1899.

2. As has already been explained in letter No.B.M.I.6/P dated the 5th February 1951 from the Executive Engineer, Ghataprabha Left Bank Canal Division, Ghataprabha, to your General Manager, Gokak Falls, the raising of the top of the Mills' weir to its present level, and construction of the entire weir in solid masonry without a gap or opening, are unauthorised in terms of your agreement with Government. Anything done by the Mills or Company to the weir, raising it to its existing increased height etc. is, therefore, at your own risk and you have no right or claim against Government in that respect. It thus rests entirely with Government either to get the extra portions of the Mills' weir dismantled by you at your cost, requiring you to conform to the conditions laid down in the existing agreement, or to permit the crest of the Mills' weir to be at a higher level than that as laid down in the existing agreement, and with such conditions in that behalf as Government may think it desirable, ratifying the increased height by incorporation in a formal agreement.

3. However, before the issue of a final decision as regards one of the two alternatives mentioned in paragraph No.2 above, I am to enquire as to whether you are agreeable to the modifications to the effect as proposed at (a) and (b below to be carried out in the existing agreements:-

(a) The supply of water at present being given to you by Government, is an equivalent of 68 cft. per second, supplied intermittently at your request for your convenience. This is the maximum quantity of supply which can be given to you, and it is proposed, with your concurrence, to modify the existing agreements so as to lay down that the maximum supply of water to be made to you at anytime shall not be more than an equivalent of 68 cft. per second;

(b) The words..." either at the India Office in London, or.." appearing in the fifth and sixth lines of clause No.18 of the agreement dated the 31st July 1894, are proposed to be deleted.

Your reply as to whether you are agreeable to the modifications to the effect as proposed above, may please be given early.

4. As regards the use being made by you of Canal(river) water...

water for purposes other than power generation, such as gardening, industrial use etc., I am directed to inform you that you should pay water rate with effect from the 15th February 1953 at the current rate of Rs.6/- per 10,000 cft.(liable to revision) for the water so used by you (i.e. for the water used for purposes other than power generation, such as gardening, industrial use etc.)."

11/9/53

3

~~84~~ 51

Copy of letter No.(nil), dated 31st August 1953 from M/s. The Gokak Mills Ltd.,Bombay, addressed to the Superintending Engineer, Karnatak Irrigation Circle,Dharwar regarding Water supply to the Gokak Mills.

"Reference: Correspondence ending with our letter dated 12th February 1951 addressed to the Chief Engineer to the Government of Bombay, Public Works Department.

We thank you for your letter B.M.I,6 dated 14th ~~M~~ July, the contents of which have been carefully studied.

2. With reference to the survey referred to in the firs paragraph of your letter, it would be very much appreciated if you would be good enough to let us have a copy of the Survey Report referred to and advise when the survey was done and by whom.

3. It is our ~~suggested~~ that the only way the various matters raised by you can be satisfactorily settled is for a Survey to be carried out by surveyors, approved by Government and the Mills; such survey to be carried out in the presence o representatives from Government and the Mills.

4. When the results of such a survey are known, it will be possible to deal with the various matters raised in paragraphs 1, 2 and 3(a) of your letter under reply.

5. Regarding paragraph 3(b), we have, of course, no objection to the changes proposed by you regarding the deletio of the reference to India Office in London

6. With reference to paragraph 4 of your letter, we are..

are advised that under the Agreement we are fully entitled to use water for purposes other than power generation and, in these circumstances, we do not consider it correct for you to request payment for water so used at the rate of Rs.6 per 10,000 cu.ft.

We trust that you will agree to our proposal for an independent survey on the lines suggested and we look forward to your further advices. When the results of such a survey are known, discussions could then take place to settle any points that may be outstanding."

11/9/53.

No.B.M.I-6.

Karnatak Irrigation Circle,
Post Box No.28,
Dharwar, 11th Sept.1953

To

Messrs. The Gokak Mills, Ltd.,
Forbes Building, Home Street,
Post Box No.79,
Bombay No.1.

Subject:- Water supply to the Gokak Mills.

Reference: Your Letter No. (nil), dated the 31st August 1953.

Dear Sirs,

The surveys by precision method, referred to in the first paragraph of this office letter No.B.M.I-6, dated the 14th July 1953, for the crest levels of the Mills' pick-up weir, were carried by Shriyuts A.V.Shankar Rao, B.E., and P.D.Jaeel, B.E., Deputy Engineers, under instructions issued to them by the Executive Engineer, Ghataprabha Left Bank Canal Division No.1, Ghataprabha, in August 1951, after the flood water over the Mills weir had subsided. The levels were reported to this office by the Executive Engineer on 20th September 1951.

2. There is no objection to the survey being done by neutral surveyors approved of by Government and the Mills, in the presence of representatives of this Department and the Mills, as suggested by you. Information as to the surveyors you propose for the survey may be furnished.

It, however, appears that there ought to be no objection if the re-survey be done by a Deputy Engineer of this Department in the presence of your representatives, which may include qualified surveyors, and this may be considered.

3. Your acceptance of the proposal in paragraph No.3(b) of this office letter No.B.M.I.6, dated the 14th July 1953 in respect of deletion of the reference to the India Office in London appearing in clause No.18 of the agreement, is noted with appreciation

4. Your reply in the sixth paragraph of your letter as regards the use being made by the Mills of Canal(river) water for purposes other than power generation, is being communicated to Government.

Yours faithfully,

Sd/-A.G.Naik
Superintending Engineer,K.I.C.

Copy, together with a copy of the letter f M/s. The Gokak Mills, Ltd., referred to above and of office letter No.B.M.I.6, dated the 14th July 1953(which it is a reply), forwarded with compliments, t Chief Engineer to Government, Public Works Departm..

Bombay, in continuation of this office letter No. B.M.I.6(Confidential), dated the 3rd August 1953.

2. As regards the sixth paragraph of the letter from the Mills, the matter of use being made of the water for purposes other than power generation, the matter may kindly be decided by Government in consultation with the Remembrancer of Legal Affairs, taking into consideration what has already been remarked on the matter, in paragraphs 3 and 4 of this office letter No.B.M.I.6 (Confidential), dated the 3rd August 1953.

Accompts:-
copies of
two letters.

Superintending Engineer,K.I.C.

CONFIDENTIAL.
No. D.I.6.

Office of the Superintending Engineer
Karnatak Irrigation Circle,
Dharwar, 14th Septr. 1953.

To

The Chief Engineer to Government,
Public Works Department, Bombay-1.

Subject:- Lease with the Gokak Mills Ltd.

Reference: Letter No. I.R.R./(Confl.) dated the 30th March 1953 from the Collector of Belgaum, addressed to this office, and copy endorsed to Government, P.W.D.

In xx inviting reference to the Collector, Belgaum's letter quoted above, I have to state that the advantage accruing to the Gokak Mills, by way of the concession of the low rate of rent for land, payable by the Mills, according as fixed in the agreement, has already been dealt with in this office letter No.D.I.6/(Confl.), dated the 23rd September 1952, wherewith a copy of the Collector, Belgaum's previous communication, viz. endorsement No.I.R.R.(Confl.) dated the 26th June 1952 was enclosed.

2. In the Collector's previous communication (as also in this office letter) quoted above, the area of the land leased to the Mills was shown as being 1,093 acres and 6 gunthas, as against 1,116 acres & 8 gunthas shown in the Collector's letter dated the 30th March 1953. In paragraph No.5 of this office letter quoted above, it was stated that the amount of rent which is being recovered from the Mills annually is Rs. 273/- for the area of 1,093 acres and 6 gunthas. For the total area of 1,116 acres and 8 gunthas of land which the Collector states the Mills are actually in possession of, the rent per annum at Annas 4 per acre therefore amounts to Rs. 279/-.

3. The Collector states in his letter of the 30th March 1953, that a N.A.assessment of Rs. 297-8-0 only is being paid by the Mills annually for the land, and suggests that as the rent charged to the Mills for the land is too low, the N.A. assessment should be increased to the maximum fixed for the three villages.

In paragraph No.3 of his endorsement dated the 26th June 1952, the Collector had suggested that Government be moved to raise the rent also, considerably.

4. According to the agreement entered into with the Mills (vide please page 2 of the agreement executed on the 31st July 1894) the rent payable by the Mills for the land leased to them is at Annas 4 per acre for the term of 99 years from the 28th May 1884. Hence, it appears that the rate of rent cannot be increased before the expiry of the term, but paragraph No.7 of this letter may also kindly be referred to in this connection.

5. As regards assessment on the land leased to the Mills, however, condition No.2 on page 4 of the agreement referred to above binds the Mills to pay "all existing and future taxes, rates, assessments payable....." in respect of the land. Accordingly, if assessment on the

land....

land is at present being recovered by the Revenue Department in addition to rent and the assessment needs enhancement in the usual course, or due to the present rates of assessment of such land prevalent in the localities being higher, it appears that the Revenue Department could revise the rate of assessment levied on the land leased to the Mills. Such revision would of course be apart from any consideration of raising the rate of assessment merely on the grounds of, or for making up for the low rate of rent fixed in the agreement

6. Government may kindly be moved for decision on the points raised and for issue of orders on the Collector of Belgaum's suggestions - vide please the latter part of his letter No.I.R.R./(Confl.) dated the 30th March 1953.

7. Even in the latest formal Indenture entered into with the Mills (which appears to be the one executed on the 22nd January 1938) the total area leased to the Mills under agreement is shown as 1,093 acres and 6 gunthas "or thereabouts," and the amount payable by the Mills annually as rent for this area, as entered in the agreement, is Rs. 273-5-0, at Annas 4 per acre. It is, therefore, not clear how the total area of 1,116 acres and 8 Gunthas is stated in the Collector's letter No.I.R.R./(Confl.) dated the 30th March 1953 to be in possession of the Mills. The Collector is being requested to state since when and under what agreement the additional area of 23 acres and 2 gunthas has been made over to the Mills.

In case this extra area of land is not covered by any formal Indenture for lease thereof to the Mills at Annas 4 per acre, this extra area could, it appears, be charged for at a higher rate than the low rate of Annas 4 per acre.

Superintending Engineer, K.I.C.

14-9.

C. W. D.
P.F. No. MIC/115/1
Serial No. 110868

MIC.115.1

Letter

Confidential,
No.B.M.I.6

Karnatak Irrigation Circle,
Post Box No.28,
Dharwar, 25th Sept.1953.

To

The Chief Engineer to Government,
Public Works Department,
Bombay.

Subject:- Water supply to the Gokak Mills.

Reference: Government letter, P.W.D.No.MIC 1151-J(Confidential), dated the 5th September 1953.

2. . . A copy of the letter dated the 31st August 1953 received from the Gokak Mills, in reply to the reference made to them by this office in accordance with the instructions contained in Govt.letter, P.W.D., No.MIC-1151-J(Confidential), dated the 24th March 1953, has been submitted to Government with this office endorsement No.BM.I-6, dated the 11th September 1953.

3. The decision and orders of Government on the sixth paragraph of the letter from the Mills, as regards the use being made by them of the water for purposes other than power generation, will be awaited.

4. As regards the opinion of the Remembrancer of Legal Affairs on the powers under the Bombay Irrigation Act, 1879, for levy of charges from the Mills for the water drawn.....

drawn other than for power generation, it appears desirable to scrutinise before enforcing the levy of the water charges under that Act, the legal implications of such provisions or wordings contained in the Agreement, in respect of 'liberty' to the Mills ' to use free of charge' or ' without making any payment' any natural excess of water during certain months or any water drawn from their own storage works, as appear in the latter portion of the second paragraph on page 3 of the Indenture executed on the 31st July 1894.

Superintending Engineer, K.I.C.

RNG.23.9.

MIC.115-1/113765-

P.W.D.

T.Bn.

Await (vide p.93 ante.)

Compl.

97 59

Copy of letter(un-numbered), dated the 24th Sept.1953 from M/s. The Gokak Mills, Ltd., Bombay,(subject:-Water Supply to the Gokak Mills).

" We thank you for your letter No.B.M.I.-6, dated 11th September, and have noted carefully all you write.

Regarding the survey that has been carried out it would be much appreciated if you could let us have details of the bench marks from which the survey originated.

2. We thank you for your approval to a survey being carried out on the lines proposed by us, and we would of course have no objection to the survey being done by a deputy engineer of your Department in conjunction with the qualified surveyor named by us, in the presence of your representatives and ours. We will advise you the name of the surveyor we would like nominated in the near future. In this connection, we have been informed by the Mills that the best time to carry out such a survey would be after the end of October when the water levels have fallen, and it is, therefore, suggested that possibly the survey should be carried out say about the middle of November.

We will be advising you further, therefore.

Points 3 and 4 of your letter have been noted.

We are, dear Sir,"

No.B.M.I.6.

Karnatak Irrigation Circle,
Post Box No.28,
C.V. Dharwar, 1-10 ~~Sept~~.1953.

Copy forwarded, with compliments, to the Chief Engineer to Government, Public Works Department, Bombay, for information, with reference to correspondence ending with this office letter No.B.M.I.6(Confidential), dated the 25th September 1953.

Superintending Engineer,K.I.C.

11C.1153/116866

P.W.D.

S.R.

Await. (vide p. 93 ante)

10/10/13

papers are unofficial
Sub-section 6a in R.D. Branch

10/10/13

Supdt.

17/2

P. W. D.
File No. MZ C1151
116866.

99 61

CONFIDENTIAL.

No.B.M.I.6.

Karnatak Irrigation Circle,
Post Box No.28,
Dharwar, 22.3.1954

To

The Chief Engineer to Government,
Public Works Department,
Bombay.

Subject:- Water supply to the Gokak Mills.

Reference: Correspondence ending with this office letter No.B.M.I.6(confidential) dated the 25th September 53.

In paragraph No.5 of Government Letter, P.W.D No.MIC-1151(Confidential), dated the 24th March 1953, Govt. directed that the Gokak Mills be informed that they should pay water rate with effect from the 15th February 1953 at the rate of Rs.6/- per 10,000 cft. for the water used by them for purposes other than drinking and power generation.

2. The Gokak Mills were intimated accordingly by this office and their reply on the point, as contained in the sixth paragraph of their letter dated the 31st August 1953(to the effect that they are not liable to the charges as above) was communicated to Government in this office letter No.B.M.I-6(Confidential), dated the 25th September 1953.

3. Copies of the opinions given by the Remembrancer of Legal Affairs and the Secretary to Govt., Legal Department, were received with Government Letters P.W.D.No.MIC-1151-J(Confidential), dated the 24th March 1953 and the 5th September 1953, respectively. However, in the last paragraph of this office letter No.B.M.I.6 (Confidential), dated the 25th September 1953, it was suggested that, before enforcing on the Mills, the levy of the water charges, it is desirable to scrutinise and consider the legal implications of the provisions or wordings contained in the Indenture executed with the Mills, as referred to in the last paragraph of this office letter quoted above. As has also been stated in the second paragraph of that letter, the final decision and orders of Government as regards recovery of the water charges in question from the Mills will be awaited.

Superintending Engineer,K.I.C.

RNG.22.3.
compd.by:

MIC 1157
35425

Copy of letter No.LNA dated 15-4-1954 from the Collector of Belgaum to Superintending Engineer, Karnatak Irrigation Circle, Dharwar.

"Subject:- Lease with the Gokak Mills Limited.

With reference to your confidential letter No.D.I.6 of 14-9-1953, addressed to the Chief Engineer to Government, P.W.D., and copy to me, on the above subject, I am to say that the additional area of 23 acres and 2 gunthas is leased to the Gokak Mills Limited as detailed below:-

Village	S.No.	Area	N.A. Asstt.	Year from which leased out.	Year in which lease expires.
1	2	3	4	5	6
Konnur	654/A/2	15-22	19-3-0	1-8-32.	1993.
	655/A	3-26			
	662/B	2-34	5-0-0	1-8-46	31-7-1956.
	657/A	1-0			

2. Leases appear to have been taken in the usual form H(Rule 43) of the L.R.Rules 1921.Copy of lease for S.No.662/B and 657/A is enclosed. The leases for the land at S.No.1 & 2 are not available."

28/10/54.

65 +

Confi ential.

No.D.I.6

To

Karnatak Irrigation Circle,
Post Box No.28,
Dharwar, 28th Oct. 1954.

The Chief Engineer to Government,
Public Works Department,
Bombay 1.

Subject:- Lease with the Gokak Mills,Ltd.

Reference: Paragraphs Nos. 2 & 7 of this office letter No.D.I.6(Confl.), dated the 14th September 1953.

I enclose herewith a copy of letter No.LNA(Confidential) dated the 15th April 1954 from the Collector, Belgaum(The original of that letter was not received in this office,and copy thereof has now been sent to this office by the Collector).

2. From the Collector's letter now received, it is clear that the additional area of 23 acres and 2 gunthas in the possession of the Gokak Mills over & above the total area of 1093 acres and 6 gunthas appearing in the Indenture entered into by the Mills with Government, was subsequently leased to the Mills by the Collector on lease agreements under the Land Revenue Rules.

3.....

3. The rent fixed by the Collector for this additional area of 23 acres and 2 gunthas leased to the Mills is not Annas four per acre (fixed in the case of the land leased to the Mills according to the Indenture) as was assumed by this office, but a higher rate-vide please the copy of the Collector's letter.

Since the Collector's letter shows that the two lease agreements for the additional area let out to the Mills expire in the year 1993 and on 31st July 1956, it appears that the rent fixed for this additional area of 23 acres and 2 gunthas also cannot be enhanced till the periods for which the lands are leased, expire.

Superintending Engin er, K.I.C.

Confdl 1-1-9

No.MIC 1151-J.

Public Works Department,
Bombay Castle (Bombay No. 1),
26th November 1954.

MEMORANDUM.

Subject:- Water-supply to Gokak Mills.

....

The undersigned presents compliments to the S.E., K.I.C., and with reference to the correspondence resting with his letter No.B.M.1.6 dated the 22-3-54, on the subject mentioned above, is directed to state that the question of charging the Gokak Mills a water rate of Rs. 6/- per 10,000 cft. for the water used by them for purposes other than drinking and power generation was again referred to the R.L.A. for scrutinising the implications of such provisions or wordings contained in the agreement in respect of "liberty" to the Mills, "to use free of charge" or "without making any payment" any natural excess of water during certain months or any water drawn from their own storage works. The R.L.A., holds that the view already expressed by him does not need any modification. The S.E. is, therefore, requested to inform the Mills that they should pay the water rate with effect from 15-2-53 at the rate of Rs. 6/- per 10,000 cft. for the water used by them for purposes other then drinking and power generation. A copy of the R.L.A's opinion in this connection is enclosed for information.

2. With reference to the S.E.s. letter No.D.I.6 dt. the 14th September 1953 the S.E. is informed, that since the rate of Rs. 273-5-0 has been fixed in respect of the full period of the lease it is not feasible to increase the rate. The Collector's proposal to enhance the rent payable in respect of the lands leased to the Mills cannot be accepted. A copy of the R.L.A's opinion in this regard is also enclosed for the S.E's information.

3. With reference to the S.E's letter NO.DI.6 dated the 28-10-54, the S.E. is informed that the rent fixed for the additional area of 23 acres and 2 gunthas also cannot

be.....

be enhanced till the expiry of the lease period; in view of the orders in para. 2 above.

4. The S.E's attention is also requested to his endorsement No.B.M.I.6 dt. the 1-10-53, and he is requested to report further developments as to whether the necessary surveys were carried out and whether the Company agrees to enter into a formal agreement with Government after accepting the amendments to the original agreement as proposed by Government.

By order and in the name of the Governor of Bombay,

Assistant Secretary to the Government of Bombay,
Public Works Department.

D.A:- Copies of R.L.A's opinions referred to. ~~(illegible)~~ ff 45-47 ∝ 5 : 1

Copy forwarded to the R.D. ~~for information~~ the Collr. of Belgaum for inform.

10-11-54

2.
AR/16/11/54

C.C

B9

Confidential
No. MIC 1151 J.

Public Works Department,
Bombay Castle, (Bombay No.1),
26th November 1954.

Memorandum

Subject:- Water-supply to Gokak Mills.

The undersigned presents compliments to the Superintending Engineer, Karnatak Irrigation Circle, and with reference to the correspondence resting with his letter No.B.M.1.6 dated the 22nd March 1954, on the subject mentioned above, is directed to state that the question of charging the Gokak Mills a water rate of Rs.6/- per 10,000 cft. for the water used by them for purposes other than drinking and power generation was again referred to the Remembrancer of Legal Affairs for scrutinising the implications of such provisions or wordings contained in the agreement in respect of "liberty" to the Mills, "to use free of charge" or "without making any payment" any natural excess of water during certain months or any water drawn from their own storage works. The Remembrancer of Legal Affairs holds that the view already expressed by him does not need any modification. The Superintending Engineer is, therefore, requested to inform the Mills that they should pay the water rate with effect from 15th February 1953 at the rate of Rs.6/- per 10,000 cft. for the water used by them for purposes other than drinking and power generation. A copy of the Remembrancer of Legal Affair's opinion in this connection is enclosed for information.

2. With reference to the Superintending Engineer's letter No.D.1.6. dated the 14th September 1953, the Superintending Engineer is informed that since the rate of Rs.273-5-0 has been fixed in respect of the full period of the lease it is not feasible to increase the rate. The Collector's proposal to enhance the rent payable in respect of the lands leased to the Mills cannot be accepted

A ....

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A copy of the Remembrancer of Legal Affairs Opinion's in this regard is also enclosed for the Superintending Engineer's information.

3. With reference to the Superintending Engineer's letter No.DI.6 dated the 28th October 1954, the Superintending Engineer is informed that the rent fixed for the additional area of 23 acres and 2 gunthas also cannot be enhanced till the expiry of the lease period, in view of the orders in paragraph 2 above.

4. The Superintending Engineer's attention is also requested to his endorsement No.B.M.1.6. dated the 1st October 1953, and he is requested to report further developments as to whether the necessary surveys were carried out and whether the Company agrees to enter into a formal agreement with Government after accepting the amendments to the original agreement as proposed by Government.

By order and in the name of the Governor of Bombay,

27-11-54.

Assistant Secretary to the Government of Bombay,
Public Works Department.

D.A.- Copies of Remembrancer of Legal Affairs opinions referred to.

Copy forwarded to the:

Revenue Department,

Collector of Belgaum,

for information.

Orders issued after consultation with Revenue Department.
Notes recorded with this Department and can be seen when required.

27/11/54.

No.Con/ 133 of 1954

Confidential Poona 28/11/1954

To,

Superintending Engineer,
Karnatak Irrigation Circle,
Dharwar.

Subject: Water supply to Gokak Mills.

I enclose herewith Government P.W.D. Confidential letter No. MIC/1151 - J dated 26th November 1954, with its accompaniments, being wrongly sent to this Office.

Superintending Engineer,
Central Circle.

D.A: As above.

Copy with compliments to the Chief Engineer (Irrigation) Public Works Department Bombay for information.

G 30.11

30/11/54

M·9C 1151/161497

P·W·D.

GBr.

Submitted for information.

2. As the S·E·C·C· has forwarded the e·m· in question to the S·E·K·9·C· to whom it was addressed no further action on their pt. which is necessary need be recorded.

11-12 JR.

13-12-54

MIC 1157

161497

ASC(III)·J

Copy of letter No.B.M.I.6 dated 10-9-1954 from Superintending Engineer,K.I.C.,to M/s The Gokak Mills, Ltd.,Forbes Building, Home Street, Bombay No.1, regarding Water supply to the Gokak Mills, Ltd.

" Reference: Correspondence ending with letter No.B.M.I.-4 dated the 3rd May 1954 from the Executive Engineer, G.L.B.C.Dn.No.1, Ghataprabha, to you.

The Executive Engineer, G.L.B.C.Dn.No.1, Ghataprabha, has since forwarded to this office a report dated the 14th May 1954 by Shri J.R.Kamat of Shriyuts K.V.Kini & Co.(appointed by you to act on your behalf in the joint survey of your pick-up-weir) showing the levels touched at various points of the crest of your weir, during the resurvey.

2. The levels of the crest of your weir as found at the joint survey varied between R.L.1985.40 to R.L.1985.47(the main R.L. thus being 1985.43) which is not lower than the levels found at the independent surveys effected of the weir by the officers of this Department, i.e. levels varying between R.L.1985.16 to 1985.31, intimated to you in this office letter No. B.M.I.6 dated the 14th July 1953, also vide please para No.1 of this office letter No.B.M.I.6 dated the 11th Sept.1953.

3. In these circumstances, may I invite reference to the 3rd and 4th paragraphs of your letter dated the 31st Aug.1954 and request you for the further communication promised by and due from you after the completion of the joint survey."

15/3/55

True Copy

Head Clerk to
Supdtg. Engr., K. I. C.

Copy of letter No.B.M.I.6 dated 10-9-1954 from Superintending Engineer,K.I.C.,to M/s The Gokak Mills, Ltd.,Forbes Building, Home Street, Bombay No.1, regarding Water supply to the Gokak Mills, Ltd.

" Reference: Correspondence ending with letter No.B.M.I.-4 dated the 3rd May 1954 from the Executive Engineer, G.L.B.C.Dn.No.1, Ghataprabha, to you.

The Executive Engineer, G.L.B.C.Dn.No.1, Ghataprabha, has since forwarded to this office a report dated the 14th May 1954 by Shri J.R.Kamat of Shriyuts K.V.Kini & Co.(appointed by you to act on your behalf in the joint survey of your pick-up-weir) showing the levels touched at various points of the crest of your weir, during the resurvey.

2. The levels of the crest of your weir as found at the joint survey varied between R.L.1985.40 to R.L.1985.47(the main R.L. thus being 1985.43) which is not lower than the levels found at the independent surveys effected of the weir by the officers of this Department, i.e. levels varying between R.L.1985.16 to 1985.31, intimated to you in this office letter No. B.M.I.6 dated the 14th July 1953, also vide please para No.1 of this office letter No.B.M.I.6 dated the 11th Sept.1953.

3. In these circumstances, may I invite reference to the 3rd and 4th paragraphs of your letter dated the 31st Aug.1954 and request you for the further communication promised by and due from you after the completion of the joint survey."

15/3/55

True Copy

Head Clerk to
Supdtg. Engr., K. I. C.

Copy of letter dated 4th Oct.1954 from the Gokak Mills, Ltd., regarding Water supply to the Gokak Mills.

" We are in receipt of your letter ref.B.M.I.6 of the 10th September

The survey carried out from 12-5-1954 to 14-5-1954 has confirmed that our pick up weir is within the limits permitted by the Indenture of 1894, as modified by those of 1897 and 1899, read together with the levels shown in the Plan annexed to, and forming part of, the Indenture.

The recent survey has shown that the crest of the pick-up-weir is 8.69 feet above the Bench Mark at the Mahalingeshwar Temple. This Bench Mark is shown on the Plan as being R.L.1975.58 and therefore the crest of the weir is R.L.1975.58+8.69=R.L.1984.27. This is less than 1984.5 as permitted in the Indenture of 1899.

The recent survey also showed that if the Bench Mark at Dhupdal, given as R.L.2007.891 is taken as the datum, the Temple Bench Mark is found to be R.L.1976.74 i.e., 1.16 feet higher than that given in the Plan. We understand that the Dhupdal Bench Mark was not in existence when the Plan was drawn, from a survey carried out in 1883. If it is now desired to apply the correction factor of 1.16 feet to the Temple Bench Mark, it must be applied equally to all other levels derived therefrom or in any way connected therewith.

Thus while admitting the correctness of the statement that our pick up weir is at R.L.1985.43 relative to the Dhupdal Bench Mark, it is still at R.L.1984.27 relative to the Bench Mark shown in the Plan which forms part of our Agreement with Govt.

Reverting to para 2 of your letter 14-7-1953, we have the following comments to make:-

(a) The raising of the top of our weir to its present level was not carried out without the authority of Govt. We have the authority of Govt.,granted in 1901, to raise it to R.L.1985.5(equivalent to R.L.1986.66 with reference to the Dhupdal Bench Mark) but this has not yet been carried out and the weir is still 1.23 feet below the R.L. to which we have permission to raise it.

(b) With regard to the weir being constructed of solid masonry, we contend that nothing short of such construction would stand up to the conditions which obtain during the monsoon flood period and the fact of being so constructed does not render it impossible to be dismantled if necessary. This is borne out by the fact that the top portion has been washed away at different places during monsoon floods. We may here mention that, while repairing damage done to the weir during the last monsoon we have taken steps to leave a 50' gap as required, thus removing the only valid cause of complaint.

(c) From the foregoing, it will be seen that there are no "extra portions of the Mills' weir for Govt. to get dismantled and no "increased height"

to.....

to be ratified. The only matter requiring ratification is that of the datum from which R.Ls are to be taken for the purpose of determining the authorised height of our weir. If the Temple Bench Mark is taken then all R.L. figures in the various indentures remain unaltered, if the Dhupdal Bench Mark is taken, then it will be necessary to add 1.16 feet to all R.Ls. in the Indentures.

We trust that you will agree with our conclusions and we look forward to your confirmation in due course.

We are, dear Sir,"

15/3/55

Head Clerk to
Supdtg. Engr., K. L. C

Letter 77

Confidential.

No.B.M.I.6

Karnatak Irrigation Circle,
Post Box No.28,
Dharwar, 7th Mar. 1955.

To

The Chief Engineer & and
Joint Secretary to Government,
P.W.D., Bombay.

Subject:- Water supply to the Gokak Mills

Reference: Govt.Memo.P.W.D.No.MIC 1151-J (confidential) dated the 26th November 1954(received with Superintending Engineer,Central Circle, Poona's letter No.Con/733(Confl.) dated the 2nd December 1954).

The Mills are informed according as directed in paragraph No.1 of the Govt.Memo.

2. The joint survey of the Mills' pick-up weir has since been carried out.

The levels of the crest of the pick-up-weir as found at the joint survey varied between R.L.1985.40 to R.L. 1985.47(the mean R.L. thus being 1985.43) which is not lower than the levels found at the independent surveys which had been effected of the weir by officers of this Department i.e. levels varying between R.L.1985.16 to R.L.1985.31 as were intimated to the Mills.

3. The independent survey as well as the joint survey referred to above were done taking the Bench Mark at the Inspection Bungalow at Dhupdal as the datum. This Bench Mark is the authoritative one being a G.T.S. Bench Mark(Musto Type).

The Gokak Mills, however, contend that the crest of their weir is not higher than R.L.1984.27 i.e. that it is less than the maximum allowed in the Indenture of 1899, in relation to the B.M. at R.L.1975.58(at the Mahalingeshwar Temple) appearing in the plan forming part of their agreement with Government. The Indenture entered into with the Mills on the 31st July 1894 has a plan attached to it showing(among other Bench Marks) the B.M. at R.L. 1975.58 referred to by the Mills.

. . . . The Mills claim that the B.M.at R.L.1975.58 shown in the plan should be taken as datum for determining the crest level of their pick-up-weir, and not the B.M. at the Inspection Bungalow at Dhupdal, installed subsequently which, they state, if taken as the datum, shows the Mahalingeshwar Temple B.M. to be at R.L.1976.74 i.e. 1.16 feet higher than as shown in the plan.

4. A copy of this office letter No.B.M.I.6 dated the 10th September 1954 addressed to the Mills & of their reply dated the 4th October 1954 accompany. The contention of the Mills is being investigated and Govt. will be written to when a decision is arrived at.

5. The Mills have, in the fifth paragraph of their letter dated the 31st August 1953(copy submitted to Government with this office endorsement No.B.M.I.6 dated the 11th Sept.1953) stated that they have no objection to the change in the Indenture regarding deletion of the reference to India Office, London. They have, however, not stated their willingness

or.....

or otherwise to the other change proposed, viz. to modify the existing agreements so as to lay down that the maximum supply of water to be made to the Mills at any time shall not be more than an equivalent of 68 Cft. per second. It was decided by Government to bring about this change(which is the more important and worth-while of the two proposed) by forcing the Mills to agree to the changes, by taking advantage of the fact that the Mills have constructed their weir above the permissible height-vide please paragraph No.3 of Govt.Letter,P.W.D. No.MIC 1151-J(Confidential) dated the 24th March 1953. 29 c/s

Since, however, as mentioned in paragraph No.3 above, the Mills claim that their weir is within the height fixed in the formal Indenture in relation to the B.M. at R.L.1975.58 appearing in the plan forming part of the agreement, until this point is decided, amendment of the formal agreement will remain pending.

6. It might also be mentioned here that the Mills have stated in sub-para(b) to the Sixth paragraph of their letter dated the 4th October 1954(copy accompanying) that they have taken steps during the last monsoon to leave the 50' gap in their weir according to the Indenture, and this they state,removes the only valid cause of complaint.

5-12 The Executive Engineer, Ghataprabha Left Bank Canal Division No.1, Ghataprabha, has been requested to verify whether the gap in the weir according as laid down in the Indenture, has been made and kept by the Mills.

7. As regards sub-para(a) to the Sixth paragraph of the Mills' letter of the 4th October 1954, wherein they state they have the authority of Government granted in 1901 to raise their pick-up-weir to R.L.1985.5 but that this has not been carried out as yet, I am inviting their attention to paragraph No.4 of the Govt. Letter, P.W.D., No.290-1 dated the 26th April 1901 and pointing out that the provisional permission has not, so far, been incorporated in a formal agreement.

D.A.
1) Copy of this office letter No.B.M.96 dt/10 Sept'54.
2) Copy of reply from the Mills dated 4 Oct'54.

Superintending Engineer,K.I.C.

P. W. D.
MIC 11

No. B.M.I.6 Office of the Superintending Engineer,
Karnatak Irrigation Circle,
Camp via Dharwar, 20th July 1955.

To

The Chief Engineer & joint Secretary
to the Government of Bombay,
Public Works Department, Bombay-1.

Subject:- Watersupply to the Gokak Mills.

Reference: Government Memorandum, P.W.D., No. MIC-1151-T dated 27th June 1955.

The matter is under correspondence with the Mills and the Executive Engineer. Further report will be submitted to Government as early as possible.

Superintending Engineer, K.I.C.

For further correspondence
pl. see
MIC 1153
159248

P. W. D.
File No. MIC 1151
Serial No. 95865

Gokak Falls - Lease of Land and water-power at the.

No. 103 W. I. - 1258 of 1891.

Public Works Department.

Bombay Castle,
30th July 1891.

Despatch from Her Majesty's Principal Secretary of State for India, No. 2, dated 2nd July 1891, as under :-

" With reference to previous correspondence on the subject of the Gokak Water Power and Manufacturing Company's lease, ending with your predecessor's Public Works Despatch No. 5, of the 14th February 1890, I transmit herewith a dozen prints of the lease, as finally settled between the Secretary of State for India in Council and the Company.

" 2. It has been settled with the Company that the lease shall be executed in India. Before, however, this is done, it will be necessary for your Government to arrange with the Agent for the proper preparation of the plan to be attached to the lease, and for the filling in of the proper dates on page 2 of the printed lease.

" 3. The original counterpart of the old lease is also transmitted, and I have to request that you will obtain the delivery by the Company of the former lease at the time of execution of the new lease.

" 4. In accordance with the arrangement come to with the Company in 1888, the expenses of registering and completing the lease, including expenses connected with the plan to be attached to the lease, will have to be borne by your Government."

RESOLUTION :- Copies to be communicated to the Commissioner and the Chief Engineer, Southern Division, the Collector of Belgaum and the Solicitor to Government.

2. The Solicitor to Government should be requested to arrange with the Agent of the Company, in communication with the Collector of Belgaum, for the preparation of the plan to be attached to the lease, and for filling in the dates on page 2 of the printed lease. It should then be prepared for execution.

3. The Solicitor to Government should further note the instructions in para. 3 of the despatch relating to the delivery of the former lease.

Sd/-
Acting Under Secretary to Government

To

The Revenue Department, Secretariat.
The Commissioner S.D.
The Chief Engineer S.D.
The Collector of Belgaum.
The Solicitor to Government.
The Examiner of Public Works Accounts.

with copies of lease.

TRUE COPY

F C.
to S. E., K. I. C.

No. ---- of 1891.

Copy forwarded for information and guidance to

THIS INDENTURE, made the day of in the Christian year 1891, BETWEEN The Secretary of State for India in Council (herein-after referred to as "the Lessor") of the one part, and The Gokak Water Power and Manufacturing Company, Limited (herein-after referred to as " the Lessees"), of the other part.

Witnesseth that in consideration of the cancellation and surrender of an instrument or indenture dated the 28th day of May 1884, purporting to have been made between the lessor of the one part and James George Smith, of Liverpool, Esq., and Charles Douglas and Magnus Mowat, of Bombay, Esqrs., of the other part, whereby the hereditaments herein-after expressed to be hereby demised purported to be demised to the said James George Smith, Charles Douglas, and Magnus Mowat, and in consideration of the rents and other payments herein-after reserved, and of the covenants and agreements on the part of the lessees herein-after contained, the lessor doth hereby demise unto the lessees all those pieces or parcels of land hitherto unoccupied, situate in the villages of Dhupdal, Konur, and Gokak, in the registration sub-district of Gokak, of the Belgaum district, containing together by admeasurement 1,093 acres and 6 goontas or thereabouts, particularised with the dimensions, abuttals, and boundaries in the schedule hereto, and delineated on the plan hereto annexed, and thereon coloured yellow and comprised within a red line (the shrines or temples and and the ground surrounding the same respectively, and also the crevice way or passage leading down to the falls of Gokak on the Ghataprabha river, which are respectively coloured blue on the said plan, being excluded from this demise), together with the exclusive right to use the water power at the said falls of Gokak so far as the same shall be actually required for the works of the lessees herein-after mentioned or referred to, and together with all buildings, erections, and constructions now upon the said lands hereby demised or any part thereof. And together also with liberty to build, erect, and maintain in and upon such parts of the said river and falls as about upon the premises hereby demised such weirs, sluices, or other works as may be necessary for the use for the purposes herein-after mentioned of the said water power. And so far only as the user of the said water power and the erection and maintenance of such works as aforesaid shall not injuriously affect any private rights or the rights herein-after reserved to the lessor. And together also with full right and liberty during the continuance of this demise to cut, and take, and sell, and dispose of in any way for their own benefit all timber or timber-like trees, grass, and brushwood growing on the said lands hereby demised. And together also with full right and liberty to quarry, work, and get in or upon the said lands hereby demised all such stone, earth, and other material as may be required by them for or in the construction or erection of any of the buildings or works hereby authorised, as also (under such regulations as may be laid down by the Government of Bombay) for sale or for any other purpose. And together also with liberty to maintain at their own expense during the continuance of this demise the works already constructed by the lessees, and to construct and maintain at and during the like expense and period on the said river at the head of rapids and just below the pick-up-works of the lessees such small works as the Government of Bombay shall sanction and approve of, in order to raise the dry season level of the water in the said reach to the extent of 3 feet or thereabouts, but not so as in any way to affect the flood discharges of the river, the lessees hereby agreeing and undertaking that in the event of such last-mentioned works being found (by levels) seriously to obstruct the ford above Konur they will take such measures (to the satisfaction of the Government of Bombay) as may be necessary ~~to prevent the crossing of the river being impeded.~~

to prevent the crossing of the river being impeded. And together also with full power and liberty at their own expense to make, construct, and maintain, during the continuance of this demise, through, over, and upon the Temple lands coloured blue on the said plan, a water channel or mill race from their intake works at the head of the rapids to the edge of the cliff at the falls of Gokak, all such works being carried out under the supervision and to the satisfaction of an officer appointed for the purpose by the Government of Bombay, and in such manner that they will not interfere with the rights of the persons using the Temples on the river bank. Except and reserving unto the lessor and other the owners and occupiers (if any) for the time being of the hereditaments adjoining the land hereby demised, and all persons claiming through or under them full and free right of way and access to the said river and falls over the land hereby demised, to the same extent and in the same manner in all respects as such right of way and access have hitherto been possessed and enjoyed. And except and reserving to the lessor the full and free right and liberty at any time during the continuance of this demise to construct and erect near the said premises, and on and near the said river and falls, for the purpose of irrigation or storage, such dams, reservoirs, canals, sluices, and all necessary erections and constructions for the purpose of collecting and storing the water of the said river and falls as the lessor may consider expedient to construct and errect. To HAVE AND TO HOLD the premises ~~hereinbefore~~ herein-before expressed to be hereby demised unto the lessees for the term of 99 years from the 28th day of May 1884. Yielding and Paying therefor during the said term in respect of the land hereby demised the certain yearly rent of Rs. 273 5as. 0ps. (being at the rate of four annas per acre) by yearly payments on the first day of June in every year at the office of the Mamlutdar of Gokak, in the Belgaum district, or at such other place as shall be appointed by the lessor for that purpose, the first payment under these presents in respect of the said rent to be made on the first day of June 189. And ALSO YIELDING AND PAYING in respect of the water supply the following additional yearly rents or sums; that is to say, for the right to use a continuous flow of 17 cubic feet of water per second, to be measured as herein-after provided, the yearly rent of sum of Rs. 3450 by equal half-yearly payments on the 1st day of January and the 30th day of June in every year at the office of the Executive Engineer for Irrigation in charge of the Government canal known as the Gokak Canal, or at such other place as shall be appointed by the lessor for that purpose, the first of such half-yearly payments under these presents to be made on the day of ------- next, and the said yearly sum to continue payable whether the water is used by the lessees or not. For the right to use any extra continuous supply of water above 17 cubic feet per second and not exceeding 68 cubic feet per second which the lessor shall, upon the requisition of the lessees made as herein-after provided, supply the additional yearly sum of Rs. 213 for each such extra cubic foot per second so continuously supplied. And for the right to use any extra continuous supply of water above 68 cubic feet per second and not exceeding 136 cubic feet per second which the lessor shall, upon such requisition as aforesaid of the lessees, supply the additional yearly sum of Rs. 350 for each such extra cubic foot per second so continuously supplied. The said last-mentioned yearly sums respectively to become payable from the respective days on which the lessor shall, in accordance with any requisition of the lessees so made as aforesaid, begin to make the extra supply named in such requisition, and to be paid by equal half-yearly payments on the days and at the place herein-before named for payment for the

original .....

original supply, commencing in every case with the payment at the time of the half-yearly payment for the original supply next after the beginning of the extra supply of an apportioned part of the additional yearly payment for the period between the beginning of the extra supply and such next half-yearly time for payment as aforesaid. All or any of the said additional yearly rents or sums which may become payable shall so long as the water in respect of which it is payable is continuously supplied continue to be payable and shall be paid thenceforward during the term hereby created, notwithstanding that the lessees may not require or use the water so supplied, and the lessees shall not be entitled to withdraw any requisition made by them for an extra supply, and the measurement of the water to be supplied for the use of the lessees under these presents shall be made at the Government head works of the said Gokak Canal or at the outlet from any weir or reservoir specially provided to secure a supply in addition to that given from the said Gokak Canal, or if necessary at both such places. And the lessees shall be bound to accept as correct the usual gauge or register used for such purposes. Provided always, that the lessees shall be entitled to use, without making any payment therefor to the lessor, any water drawn from their own storage works. And also that no charge shall be leviable by the lessor for or in respect of any natural excess of water during the months of July, August, September, and October in any year used or available for use beyond the quantity in respect of which the yearly rents herein-before reserved shall for the time being have become payable, and which excess of water the lessees are to be at liberty to use free of charge.

Provided Also, that if the Secretary of State having done everything necessary on his part, by the erection and maintenance of storage and other works of adequate capacity, and suitable and sufficient for the purpose of ensuring to the lessees, the continuous supplies of water to which under these presents they may for the time being and from time to time be entitled, and having also done everything reasonably possible on his part to keep such storage works in proper repair and condition, and at all times supplied with water necessary and sufficient for the purposes of such continuous supplies, and having in all other respects done his best to enable him to carry out and perform the terms of these presents, shall nevertheless be prevented by the Act of God, or the deficiency from natural causes of the normal supply of water from the river, or by the necessity for repairing the storage works in consequence of unforeseen damage or natural and ordinary wear and tear, not resulting from any neglect or failure on the part of the Secretary of State to maintain such works in good condition, or from any other cause or causes beyond the control of the Secretary of State, from giving such continuous supply, and the same shall in consequence at any time or times be interrupted or deficient, such interruption or deficiency shall not render the Secretary of State liable to any claim for damages for breach of contract; provided, so far as the same is capable of being remedied by repairing damage to the storage or to other works, he shall, as soon as reasonably can be, make good such damage so as to enable the full supply to be continued; but if and so long as the said interruption or deficiency shall exceed 25 per cent. of the continuous supply of water to which under these presents the lessees may for the time being be entitled, then and in such case, and so long as such excess continues, and until the same shall be remedied, the payment of all water rent to which the

Secretary of State would otherwise be entitled hereunder shall be suspended. PROVIDED ALWAYS, that if and so long as the said interruption or deficiency shall not exceed 25 per cent. of the continuous supply of water to which under these presents the lessees may for the time being be entitled, then and in such case a deduction shall be made from the water rent for the time being payable or reserved under these presents, and such deduction shall be proportionate to the actual deficiency in the supply, and shall bear the same proportion to the annual water rent for the time being payable or reserved in respect of such actual deficiency as the number of days during which the supply shall be so interrupted or deficient as aforesaid shall bear to 365.

AND THE LESSEES HEREBY COVENANT WITH THE LESSOR IN MANNER FOLLOWING; that is to say :-

1. To pay to the lessor, at the times and places hereinafter before respectively specified, the said yearly rents or sums, clear of all deductions.

2. To pay all existing and future taxes, rates, assessments, cesses, and outgoings of every description for the time being in anywise payable in respect of the land, hereditaments, and premises herein-before expressed to be hereby demised, or the buildings and works erected thereon.

3. To use the said demised lands solely as a site for and in connection with ex experimental or permanent works constructed or to be constructed thereon, and to furnish the same with machinery suitable for utilising the requisitioned water power of the said river and falls, the user whereof is hereby granted as aforesaid, for purposes of mechanical industry, but so that no omission or failure by the lessees to utilise the said water power or any part thereof shall be deemed a breach of covenant or agreement on their part under or within the meaning of these presents.

4. Not to pollute by the construction, establishment, or operations of any such work or works the water of the river and falls or render it unfit to drink, and to make such arrangements and carry out such works as may be considered necessary by the lessor or his agent from time to time appointed for that purpose to prevent any such pollution or injury to the water aforesaid.

5. From time to time and at all times during the continuance of this demise to sufficiently maintain and keep in repair the said work or works and the buildings and erections connected therewith.

6. Not to build or construct any works which will cause obstruction to the free flow of water below the canal weir.

7. To permit the lessor, or his officers, servants, or agents, at all times in the daytime to enter upon the said premises and view the same and the works carried on there, and to furnish all such information in relation thereto as shall be required.

8. To make reasonable compensation to any tenant or tenants, occupier or occupiers of land, and to any other person or persons whomsoever, for any damage or loss which may be sustained by him or them by reason or in consequence of the said works, or the exercise of the liberty hereby granted, or anywise in relation thereto, or by reason of any matter or thing which may be done in pursuance of these presents.

9. To indemnify ...

9. To indemnify the lessor against all actions, suits, claims, and demands on account of any such damage or loss as aforesaid.

10. Not to assign, underlet, or part with possession of the said premises or any of them without the previous consent of the lessor. Provided, however, if the lessees shall furnish security to the satisfaction of the lessor by depositing, when called upon to do so, Government security to the amount of the capitalised value of the future rent payable under this lease, or if in case of a proposed underletting of any portion of the said water rights the lessees shall deposit as aforesaid Government security to the amount of the capitalised value of the future rent payable in respect of the water rights so proposed to be underlet, the lessor shall not object to such assignment or underletting.

11. At the expiration or sooner determination of the said term, to deliver up to the lessor the said lands hereby demised, and all dams, embankments, drains, water-courses, warehouses, buildings, erections, gins, engines, pumps, machinery or plant, and other matters and things then standing or being thereon. Provided, nevertheless, that unless the said term of 99 years shall be determined by ~~xxx~~ re-entry under the power in that behalf herein-after contained, the lessees may remove for their own use all buildings or erections engines or working tools, machinery, or plant belonging to them, then being in, on, or about the said demised premises, or standing or being thereon, first giving to the lessor the option of purchasing such buildings or erections, engines, working tools, machinery, or plant, or any part thereof, at a fair valuation.

12. Provided always, and these presents are on the express condition, that if and whenever any part of the rents herein-before reserved shall be in arrear for 21 days, whether the same shall have been legally demanded or not, or if and whenever there shall be a breach of any of the covenants and agreements by the lessees herein contained, the lessor may re-enter upon any part of the ~~xixx~~ said premises in the name of the whole and repossess the same, together with all buildings, erections, engines, working tools, machinery, and plant then being on the said premises, as fully and effectually as if these presents had never been made.

And the lessor doth hereby covenant with the lessees in manner following; that is to say :-

13. To provide for the use of the lessees from the said river and falls a continuous flow of 17 cubic feet per second, measured as herein-before provided, ~~and also, unless prevented by unavoidable causes as herein-before provided,~~ and also, unless prevented by unavoidable causes as herein-before provided for, within such periods as are herein-after mentioned, such extra continuous supply of water, not exceeding altogether 136 cubic feet per second as the lessees shall from time to time by requisition made or to be made in manner herein-after provided require and be willing to pay for at the rates herein-before specified. In reference to such extra supply the following provisions shall have effect : (a) If the lessees shall at any time or times during the continuance of this demise give to the lessor notice in writing specifying the additional number of cubic feet per second (but not less than 10 cubic feet at a time)

required .....

required by them beyond the said flow of 17 cubic feet per second and up to 51, making the total supply 68 cubic feet per second, the lessor will, on or before the expiration of 24 calendar months from the receipt of every such notice, supply the lessees continuously with the additional quantity specified in such notice or notices at the rate herein-before mentioned. (b.) If~~x~~ when the lessees shall have given in manner aforesaid a notice or notices requiring inclusively of the said 17 cubic feet per second a total supply of 68 cubic feet per second the lessees shall require a further supply and shall give to the lessor a notice or notices in writing of such requirement, not exceeding in the whole a further supply of 68 cubic feet per second (making with the former supply 136 cubic feet per second), the lessor will on or before the expiration of 36 calendar months from the receipt of such notice, if the whole of such further supply is thereby required, or the first of such notices if part only is required, and on or before the expiration of 24 calendar months from the receipt of the second or any subsequent notice, supply the lessees with the additional quantity specified in such notice or notices respectively at the rate ~~with the additional~~ herein-before mentioned. Provided always, that no such notice as aforesaid in respect of the last-mentioned further supply of 68 cubic feet per second shall require less than 17 cubic feet per second. Provided Always, and it is hereby expressly agreed, that if the lessor, having used reasonable diligence, shall be unable to supply any additional quantity required in excess of the first 68 cubic feet per second until the expiration of 48 calendar months from the receipt of any such notice or notices as aforesaid of the lessees given in respect of the further or second 68 cubic feet per second, he shall not be liable or answerable for any loss or damages incurred or sustained by the lessees in consequence of or incident to such delay. (c.) If lessees shall at any time hereafter require and the lessor shall be in a position to furnish with reasonable facility and without unreasonable expense a supply larger than that of 136 cubic feet per second guaranteed as aforesaid, the lessor will furnish any reasonable additional supply at rates to be hereafter settled, but the lessor shall have the absolute and indisputable power of deciding whether he is or is not in a position to furnish with reasonable facility and without unreasonable expense any additional supply.

14. If the lessees shall pay the rents herein-before reserved and payable, and perform and observe the covenants and agreements by them herein contained, they may at all times during the said term peaceably and quietly hold and enjoy the premises herein-before expressed to be hereby demised without the interruption or disturbance of the lessor, or of any other person or persons whomsoever lawfully claiming from under or in trust for him.

15. PROVIDED ALWAYS, and it is hereby agreed, that if at any time during the continuance of this demise the lessees shall require a supply of water larger than 136 cubic feet per second, and shall be willing at their own expense to construct the necessary storage works for that purpose, they shall be entitled to do so (but so as not to prejudice or interfere with the supply of the said 136 cubic feet per second, or the then existing irrigation works of the lessor, or the then existing supply of water to any person who, in the opinion of the Government of Bombay, may be entitled to the enjoyment of the use of the said river water), and to store therein water from the said river and falls, and to use all water drawn from such storage works without making any payment therefor to the lessor.

Provided Also, and it is hereby agreed, that for the purpose of constructing any such storage works it shall be lawful for the lessees to quarry for, take, and use free of charge any stone or other materials in and from any lands for the time being unoccupied or unused for any other purpose of the lessor in the neighbourhood of such works within limits to be agreed upon by the lessor.

16. And it is hereby agreed that if on the expiration of the term hereby granted the lessor shall not exercise his option of purchasing the buildings, engines, working tools, machinery, and plant, or any part thereof, under the provision in that behalf herein-before contained, the lessees shall and will at their own expense remove all buildings, engines, working tools, machinery, and plant from the said demised premises within six calendar months from the date of the expiration of the said term, in default whereof the said buildings, engines, working tools, machinery, and plant shall on the expiration of the said six months become the property of the lessor.

17. Provided Always, and it is hereby agreed and declared between and by the parties hereto, that if the lessor shall at any time during the continuance of this demise desire to enjoy any new right of way over the premises hereby demised or any part thereof the lessees shall and will grant the same to the lessor on payment of reasonable compensation for any damage that may be thereby to them occasioned.

18. And it is hereby agreed that if, on the expiration of the said term hereby granted, the lessees shall be desirous of taking a renewed lease of the said premises hereby demised, and of such desire shall, prior to the expiration of the said term, give to the lessor six calendar months, previous notice in writing by delivering the same or causing the same to be delivered either at the India Office in London, or at the office of the Chief Secretary to the Government of Bombay in Bombay, and shall pay the rents hereby reserved, and observe and perform the serveral covenants and agreements herein contained, and on the part of the lessees to be observed and performed up to the expiration of the said term hereby granted, the lessor will upon the request and at the expense of the lessees, and upon their executing and delivering to the lessor a counterpart thereof, forthwith execute and deliver to the lessees a renewed lease of the said premises for such further term, at such rent or rents, and under and subject to such covenants, provisoes, and agreements, as the lessor shall think necessary or proper, but in settling the rent to be paid any increase in the value of the property arising from buildings or works erected or executed thereon during the first term of 99 years shall not be taken into account.

19. Provided Always, AND It Is Hereby Agreed And Declared, that if any doubt difference, or dispute shall arise between the lessor and the lessees touching the matters in respect of which compensation ought to be made in pursuance of these presents, or touching the amount of such compensation, or the price to be paid in respect of any of the things to be purchased in pursuance of these presents, or touching these presents, or any clause or thing herein contained, or the construction hereof, or any matter in any way connected with these presents or the operation hereof, or the rights, duties, or liabilites of either party in connection with the premises, then and in every or in any such case the matter in difference shall be referred to and decided by two arbitrators, one to be named by the lessor, and the other by the lessees or if the arbitrators differ them to and by an umpire to be chosen by them before entering .....

entering upon the arbitration; and if either party shall fail to name an arbitrator after notice in writing by the other or his or their agent requiring him or them so to do, or shall name an arbitrator who neglects to act or to proceed with due diligence in the business of the arbitration, or who will not join in naming an umpire, then to and by the arbitrator named by the other party, and the decision of such arbitrators or arbitrator or umpire, as the case may be, shall be final.

20. And it is hereby agreed and declared that if the lessor shall with reasonable diligence and expedition construct or proceed with the construction of any works, dams, or reservoirs which may be necessary to provide for the use of the lessees from the said river and falls such extra continuous supply of water as the lessees shall in accordance with the provisions of these presents require beyond the continuous flow of 17 cubic feet of water per second first herein-before mentioned, the lessees will not make any claim for damages or compensation in respect of the noncompliance by the lessor with a requisition for the extra supply of 20 cubit feet of water per second dated the 14th day of May 1886, and delivered under the provisions of the said instrument or indenture of the 28th day of May 1884, and will indemnify the lessor against any such calim made by or on behalf of any other person or persons claiming under or by virtue of the same instrument or indenture.

21. PROVIDED LASTLY, that the expression "the lessees" herein-before used shall, unless such an interpretation is inconsistent with the context, include their successors and assigns.

In witness.

TRUE COPY

C. H. Dulie 10/9

to S. E.

THE SCHEDULE above referred to,

CONTAINING THE DESCRIPTION AND BOUNDARIES OF LANDS DEMISED.

Plot 1. - Portion of unassessed unculturable Government waste, Revision Survey, No. 173, of Dhupdal Taluka, Gokak, measuring 143 acres, 18 gunthas.

Bounded on the north by Revision Suvey, Nos. 182, 168 169, 170, 171, and 172, of Dhupdal.
Bounded on the east by Old Revenue Survey, No. 40, of the Inam Village of Kurbet.
Bounded on the south by Old Revenue Survey, No. 64 of the Inam village of Singnapur, a portion of the reserved portion of Revision Survey, No. 173 (the boundaries of which are to the North Inam Revision Survey, No. 174, extending from the South-east corner towards the west up to the trigonometrical station mark 2085.35, to the east portion of Revision Survey, No. 173, to the South Singnapur Old Revenue Survey, No. 64, and to the west portion of Revision Survey, No. 173), the high flood level line up to the south-east corner of Revision Survey, No. 175.
Bounded on the west by Revision Survey, Nos. 175, 176, and 181, of the Village of Dhupdal.

Plot II. - Portion of unassessed unculturable Government waste, Revision Survey, No. 244, of Gokak, Taluka Gokak, measuring 312 acres, 10 gunthas.

Bounded on the north by the high flood level line shown on the map in blue colour, Revision Survey, Nos. 243, 242, and 241 of the village of Gokak.
Bounded on the east by Revision Survey, Nos. 240, 238, 237, 234, 233, and 265, of Gokak.
Bounded on the South by Revision Survey, No. 265 of Gokak, and Nos. 654 and 655 of Konur.
Bounded on the west by trigonometrical station mark 2078. Portion of land covered with boulders and scrub at the foot of the precipice.

Plot III. - Portion of unculturable unassessed Government waste, Revision Survey, No. 654, of the Village of Konur Taluka, Gokak, measuring 267 acres, 24 gunthas.

Bounded on the north by road from Konur to Gokak, running west to east from trigonometrical station mark 2001.58, as far as to a point about 100 feet to the east of the road, whence a line running at right angles to the road, portion of land covered with boulders and scrub at the foot of the precipice, including the crevice and Revision Survey, No. 244, of Gokak.
Bounded on the east by Revision Survey, No. 244, of Gokak.
Bounded on the south by Revision Survey, No. 655, of Konur.
Bounded on the west by Revision Survey, No. 652, of Konur.

Plot IV. :- Unassessed unculturable Government waste, Provision Survey, No. 655, of the Village of Konur Taluka, Gokak, measuring 369 acres, 34 Gunthas.

Bounded on the north by Revision Survey, No. 654, of Konur.
Bounded on the east by Revision Survey, Nos. 244 and 265, of Gokak.
Bounded on the south by Revision Survey, No. 656, of Konur.
Bounded on the west by Revision Survey, No. 653, of Konur, trigonometrical station mark 2001.58.

TRUE COPY

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to S. L., R. I. C.